



भारत का राजपत्र

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No. 41] NEW DELHI, OCTOBER 5, 2014—OCTOBER 11, 2014, SATURDAY/ASVINA 13—ASVINA 19, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक् संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 12 सितम्बर, 2014

का.आ. 2672.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, नीचे दी गई सारणी के कालम (2) में विनिर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (3) में विनिर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में विनिर्दिष्ट बैंकों में सरकार द्वारा नामित निदेशक के रूप में तत्काल प्रभाव से और अगले आदेश होने तक, नामित करती है :

| (1) | (2) | (3) |
|---------------------------|-------------------------------------------------------|---------------------|
| 1. ओरियंटल बैंक ऑफ कामर्स | श्री राजन कुमार, आर्थिक सलाहकार, वित्तीय सेवाएं विभाग | श्री रजत सच्चर |
| 2. विजया बैंक | श्री संजय कुमार, उप सचिव, वित्तीय सेवाएं विभाग | श्री वी. के. चोपड़ा |

[फा. सं. 6/3/2012-बीओ-1]
मिहिर कुमार, निदेशक

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 12th September, 2014

S.O. 2672.—In exercise of the powers conferred by clause (b) of Sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominate the persons specified in column (2) of the table below as Government Nominee Director of the Banks specified in column (1) thereof, in place of the persons specified in column (3) of the said Table, with immediate effect and until further orders :—

| (1) | (2) | (3) |
|------------------------------|-----------------------------------------------------------------------|-------------------|
| 1. Oriental Bank of Commerce | Shri Rajan Kumar, Economic Adviser, Department of Financial Services | Shri Rajat Sachar |
| 2. Vijaya Bank | Shri Sanjay Kumar, Deputy Secretary, Department of Financial Services | Shri V.K. Chopra |

[F. No. 6/3/2012-BO-I]
MIHIR KUMAR, Director

नई दिल्ली, 17 सितम्बर, 2014

का.आ. 2673.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उप-धारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करके, एतद्द्वारा, श्री नचिकेत मोर, निदेशक, भारतीय रिजर्व बैंक को अधिसूचना की तारीख से और अगले आदेशों तक, जो भी पहले हो, श्रीमती शशि आर. राजगोपालन के स्थान पर राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक मण्डल में अंशकालिक निदेशक नामित करती है।

[फा. सं. 7/3/2014-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 17th September, 2014

S.O. 2673.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, in consultation with the Reserve Bank of India, hereby nominates Dr. Nachiket Mor, Director, Reserve Bank of India as part time Director on the Board of Directors of National Bank for Agriculture and Rural Development (NABARD), from the date of notification and until further orders whichever is earlier vice Smt. Shashi R. Rajagopalan.

[F. No. 7/3/2014-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 18 सितम्बर, 2014

का.आ. 2674.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 9 के उप-खंड (1) और (2) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्द्वारा, बैंक ऑफ इंडिया के वरिष्ठ प्रबंधक श्री हरविन्दर सिंह (जन्म तिथि 28-4-1957) को उनकी पुनर्नियुक्ति की अधिसूचना की तारीख से दिनांक 30-4-2017 तक, अर्थात् जब वे अधिवर्षिता की आयु प्राप्त करेंगे अथवा जब तक वे बैंक ऑफ इंडिया के अधिकारी के रूप में अपना पदभार नहीं छोड़ देते अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, बैंक आफ इंडिया के निदेशक मण्डल में अधिकारी कर्मचारी निदेशक पुनर्नियुक्त करती है।

[फा. सं. 6/52/2013-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 18th September, 2014

S.O. 2674.—In exercise of the powers conferred by clause (f) of sub-section 3 of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) & (2) of clause 9 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central

Government after consultation with the Reserve Bank of India, hereby re-appoints Shri Harvinder Singh (DoB : 28.04.1957), Senior Manager, Bank of India, as Officer Employee Director on the Board of Directors of Bank of India, for a period upto 30.04.2017 i.e. the date of his attaining the age of superannuation, from the date of notification of his re-appointment or until he ceases to be an officer of the Bank of India, or until further orders, whichever is the earliest.

[F. No. 6/52/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 19 सितम्बर, 2014

का.आ. 2675.—निक्षेप बीमा और प्रत्यय गारंटी अधिनियम, 1961 (1961 का 47) की धारा 6 की उप-धारा 2 के खंड (ii) के साथ पठित धारा 6 की उप-धारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करके, एतद्द्वारा, श्री राजारमन रामचन्द्रन को उनकी अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, निक्षेप बीमा और प्रत्यय गारंटी निगम (डीआईसीजीसी) के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[फा. सं. 6/13/2012-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 19th September, 2014

S.O. 2675.—In exercise of the powers conferred by clause (d) of sub-section (1) of Section 6 read with clause (ii) of sub-section 2 of Section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Rajaraman Ramachandran as Part Time Non Official Director on the Board of Directors of Deposit Insurance and Credit Guarantee Corporation (DICGC), for a period of three years from the date of his notification, or until further orders, whichever is earlier.

[F. No. 6/13/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 19 सितम्बर, 2014

का.आ. 2676.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 9 के उप-खंड (1) और (2) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्द्वारा, श्री प्रेम कुमार मक्कड़ (जन्म तिथि 12-03-1961), वरिष्ठ प्रबंधक, बैंक ऑफ बड़ौदा को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा बैंक ऑफ बड़ौदा में उनके अधिकारी के पद पर बने रहने तक

अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, बैंक ऑफ बड़ौदा के निदेशक मण्डल में अधिकारी कर्मचारी निदेशक नियुक्त करती है।

[फा. सं. 6/51/2013-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 19th September, 2014

S.O. 2676.—In exercise of the powers conferred by clause (f) of sub-section 3 of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) and (2) of clause 9 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government after consultation with the Reserve Bank of India, hereby appoints Shri Prem Kumar Makkar (DoB : 12.03.1961), Senior Manager, Bank of Baroda, as Officer Employee Director on the Board of Directors of Bank of Baroda, for a period of three years, from the date of notification of his appointment or until he ceases to be an officer of the Bank of Baroda, or until further orders, whichever is the earliest.

[F. No. 6/51/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 19 सितम्बर, 2014

का.आ. 2677.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 9 के उप-खंड (1) और (2) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री बैंकिम आर. देसाई (जन्म तिथि : 15-06-1960), सिंगल विंडो आपरेटर 'बी', देना बैंक को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा देना बैंक में उनके कर्मकार कर्मचारी के पद पर बने रहने तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, देना बैंक के निदेशक मण्डल में कर्मकार-कर्मचारी निदेशक नियुक्त करती है।

[फा. सं. 6/6/2014-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 19th September, 2014

S.O. 2677.—In exercise of the powers conferred by clause (e) of Sub-section 3 of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with Sub-clause (1) and (2) of Clause 9 of The Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri Bankim R. Desai (Date of Birth : 15.06.1960), Single Window Operator 'B', Dena Bank as Workmen Employee Director on the Board of Directors of Dena Bank for a period of three years from the date of notification of his appointment or until he ceases to be a Workmen Employee of Dena Bank or until further orders, whichever is the earliest.

[F. No. 6/6/2014-BO-I]

VIJAY MALHOTRA, Under Secy.

आदेश

नई दिल्ली, 22 सितम्बर, 2014

का.आ. 2678.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 8 के उप-खंड (1क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री सुधीर कुमार जैन, अध्यक्ष एवं प्रबंध निदेशक, सिंडिकेट बैंक के कार्यकाल को तत्काल प्रभाव से तथा इस निदेश के साथ समाप्त करती है कि नोटिस के बदले तीन माह के वेतन एवं भत्तों को प्रदान करने पर तभी विचार किया जाएगा जब उन्हें दोषमुक्त किया जाएगा।

[फा. सं. 1/10/2012-सतर्कता (भाग-1)]

विजय मल्होत्रा, अवर सचिव

ORDER

New Delhi, the 22nd September, 2014

S.O. 2678.—In exercise of the powers conferred by sub-clause (1A) of Clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme 1970/1980, the Central Government hereby terminates the term of office of Shri Sudhir Kumar Jain as CMD, Syndicate Bank with immediate effect and with the direction that grant of three months' salary and allowances in lieu of the notice may be considered only if he is exonerated.

[F. No. 1/10/2012/Vig. (Part-1)]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 24 सितम्बर, 2014

का.आ. 2679.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री एस. आर. मेहर, उप सचिव, वित्तीय सेवाएं विभाग को तत्काल प्रभाव से और अगले आदेशों तक, श्री एम. एम. दौला के स्थान पर पंजाब एंड सिंध बैंक के निदेशक मण्डल में सरकार द्वारा नामित निदेशक नामित करती है।

[फा. सं. 6/3/2012-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 24th September, 2014

S.O. 2679.—In exercise of the powers conferred by clause (b) of Sub-Section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates Shri S.R.Mehar, Deputy Secretary, Department of Financial Services, as Government Nominee Director on the Board of Directors of Punjab and Sind Bank with immediate effect and until further orders vice Shri M.M.Dawla.

[F. No. 6/3/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 29 सितम्बर, 2014

का.आ. 2680.—कौशल विकास ऋण गारंटी कोष की स्थापना के लिए मंत्रिमंडल के अनुमोदन (मामला सं. 364) के अनुसरण में यह विभाग, निधि के व्यवस्थापक के रूप में एतद्वारा, मुख्य कार्यपालक अधिकारी, नेशनल क्रेडिट गारंटी ट्रस्टी कंपनी लिमिटेड को निधि प्रबंधन समिति के सदस्य के रूप में नियुक्त करता है।

[फा. सं. 1/12/2011-आईएफ-II]

उदय भान सिंह, अवर सचिव

New Delhi, the 29th September, 2014

S.O. 2680.—Pursuant to the Cabinet approval (case No. 364) for establishment of a Credit Guarantee Fund for Skill Development, this Department as a settler of the Fund hereby appoints Chief Executive Officer, National Credit Guarantee Trustee Company Limited as Member Secretary in the Management Committee of the Fund.

[F.No. 1/12/2011-IF-II]

UDAI BHAN SINGH, Under Secy.

नई दिल्ली, 30 सितम्बर, 2014

का.आ. 2681.—पेंशन निधि विनियामक और विकास प्राधिकरण अधिनियम, 2013 (2013 का 23) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री हेमन्त जी. कान्ट्रेक्टर को पदभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिए अथवा 65 वर्ष की आयु पूरी होने तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, आवास और कार की सुविधा के बिना 4.50 लाख रुपये प्रति माह (समेकित) के वेतन में पेंशन निधि विनियामक और विकास प्राधिकरण (पीएफआरडीए) के अध्यक्ष के पद पर नियुक्त करती है।

[फा. सं. 1/3/2013-पीआर]

एनॉ राय, निदेशक (सतर्कता एवं पीआर)

New Delhi, the 30th September, 2014

S.O. 2681.—In exercise of powers conferred by Section 4 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013), the Central Government hereby appoints Shri Hemant G. Contractor as Chairman of the Pension Fund Regulatory and Development Authority (PFRDA) for a period of five years with effect from the date of assumption of charge of the post, or till attaining the age of 65 years or until further orders, whichever is earliest, in the scale of pay of Rs. 4.50 lakh per month (consolidated), without facility of house and car.

[F.No. 1/3/2013-PR]

ANNA ROY, Director (Vig. & PR)

(व्यय विभाग)

नई दिल्ली, 8 अक्टूबर, 2014

का.आ. 2682.—भविष्य निधि अधिनियम, 1925 (1925 का 19) के खंड 8 के उप खंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग

करते हुए केन्द्र सरकार एतद्वारा यह निदेश देती है कि उक्त अधिनियम (खंड 6क को छोड़कर) के प्रावधान केन्द्रीय होमियोपैथी परिषद् के कर्मचारियों के हित के लिए स्थापित भविष्य निधि पर लागू होंगे।

[फा. सं. 4(1)-ईवी/2009]

विजय कुमार सिंह, निदेशक

(Department of Expenditure)

New Delhi, the 8th October, 2014

S.O. 2682.—In exercise of the powers conferred by sub-section (2) of Section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act (except Section 6A) shall apply to the Provident Fund established for the benefit of the employees of the Central Council of Homeopathy.

[F.No. 4(1)-EV/2009]

VIJAY KUMAR SINGH, Director

नई दिल्ली, 8 अक्टूबर, 2014

का.आ. 2683.—भविष्य निधि अधिनियम, 1925 (1925 का 19) के खंड 8 के उप खंड (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, इस अधिसूचना के प्रकाशन की तारीख से निम्नलिखित लोक संस्थान को एतद्वारा उक्त अधिनियम की अनुसूची में संयोजित करती है :-

“केन्द्रीय होमियोपैथी परिषद्”

[फा. सं. 4(1)-ईवी/2009]

विजय कुमार सिंह, निदेशक

New Delhi, the 8th October, 2014

S.O. 2683.—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds to the Schedule to the said Act with effect from the date of publication of the notification, the name of the following public institution, namely:—

“Central Council of Homeopathy”

[F.No. 4(1)-EV/2009]

VIJAY KUMAR SINGH, Director

संचार और सूचना प्रौद्योगिक मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 7 अक्टूबर, 2014

का.आ. 2684.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग नियम, 1976 (यथा संशोधित, 1987, 2007 तथा 2011) के नियम 10(4) के अनुसरण में (क) मुख्य महाप्रबंधक

दूरसंचार, राजस्थान दूरसंचार परिमंडल के प्रशासनिक नियंत्रण के अंतर्गत दूरसंचार जिला प्रबंधक कार्यालय, बूंदी (ख) मुख्य महाप्रबंधक कार्यालय, केरल दूरसंचार परिमंडल के प्रशासनिक नियंत्रण के अंतर्गत महाप्रबंधक कार्यालय, मल्लपुरम तथा (ग) मुख्य महाप्रबंधक कार्यालय, पंजाब दूरसंचार परिमंडल के प्रशासनिक नियंत्रण के अंतर्गत महाप्रबंधक दूरसंचार कार्यालय, बठिंडा, जिनमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

2. यह अधिसूचना राजपत्र में प्रकाशन की तारीख से लागू होगी।

[सं. ई-11016/01/2009-राजभाषा]

एस.सी. शर्मा, उप महानिदेशक

**MINISTRY OF COMMUNICATIONS AND
INFORMATION TECHNOLOGY**

(Department of Telecommunications)

(O.L. SECTION)

New Delhi, the 7th October, 2014

S.O. 2684.— In pursuance of rule 10(4) of the Official Languages (use for official purpose of the Union) Rules, 1976 the Central Government hereby notifies the (a) Office of the Telecom District Manager, Boondi under administrative control of the Office of the Chief General Manager Telecom, Rajasthan Telecom Circle (b) Office of the General Manager, Malappuram under administrative control of the Office of the Chief General Manager Telecom, Kerala Telecom Circle and (c) Office of the General Manager, Telecom office, Bhatinda under the administrative control of the Chief General Manager, Punjab Telecom Circle, where more than 80% staff have acquired working knowledge of Hindi.

2. This notification shall come into force from the date of its publication in the Official Gazette.

[No. E-11016/1/2009-O.L.]

S.C. SHARMA, Dy. Director General

सांख्यिकी और कार्यक्रम कार्यान्वयन मंत्रालय

नई दिल्ली, 18 सितम्बर, 2014

का.आ. 2685.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप नियम (4) के अनुसरण में, सांख्यिकी और कार्यक्रम कार्यान्वयन मंत्रालय के अधीन क्षेत्र संकार्य प्रभाग, राष्ट्रीय प्रतिदर्श सर्वेक्षण कार्यालय के निम्नलिखित कार्यालयों, जिसके 80 प्रतिशत कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को भारत के राजपत्र में अधिसूचित करती है :-

1. उप-क्षेत्रीय कार्यालय, फतेहपुर
2. उप-क्षेत्रीय कार्यालय, झांसी
3. उप-क्षेत्रीय कार्यालय, गोंडा
4. उप-क्षेत्रीय कार्यालय, कानपुर

[सं. ई-11011/2/2006-हिंदी]

देवेन्द्र वर्मा, उप महानिदेशक

**MINISTRY OF STATISTICS AND PROGRAMME
IMPLEMENTATION**

New Delhi, the 18th September, 2014

S.O. 2685.—In pursuance of sub rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976 (as amended - 1987), the Central Government hereby notify the following offices of Field Operation Division, National Sample Survey Office under the Ministry of Statistics and Programme Implementation in the Gazette of India where 80 percent of the staff has acquired the working knowledge of Hindi :-

1. Sub Regional Office, Fatehpur
2. Sub Regional Office, Jhansi
3. Sub Regional Office, Gonda
4. Sub Regional Office. Kanpur

[No. E-11011/2/2006-Hindi]

DEVENDRA VERMA, Dy. Director General

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 29 सितम्बर, 2014

का.आ. 2686.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :-

अनुसूची

| क्र. लाइसेंस सं. संख्या | स्वीकृति करने की तिथि वर्ष/माह | लाइसेंसधारी का नाम एवं पता | भारतीय मानक का शीर्षक | भामा सं./भाग/खण्ड/वर्ष |
|-------------------------|--------------------------------|--------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|------------------------|
| 1. 2884680 | 02-05-2014 | एसोसिएटेड केबल्स प्रा.लि. सी-9 एमआयडीसी, खेरडी, तालुका : चिपलुन जिला : रत्नागिरी-415604 | कासलिकड पॉलीथिलीन विद्युत्तरोधी पीवीसी आवरित केबल भाग 1, 1100 वो.तक एवं सहित कार्यकारी वोल्टता हेतु | भा मा 7098:भाग 1:1988 |

| क्र. लाइसेंस सं. संख्या | स्वीकृति करने की तिथि वर्ष/माह | लाइसेंसधारी का नाम एवं पता | भारतीय मानक का शीर्षक | भामा सं./भाग/खण्ड/वर्ष |
|-------------------------|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 2. 2884882 | 09-05-2014 | विश्वजीत लोमटे प्लॉट सं. बी-40, सिन्नर एमआयडीसी, मालेगांव जिला नासिक, महाराष्ट्र-422103 | एसी पावर तंत्रों के लिए स्वतः ठीक होने वाले 650 वोल्ट तक की रेटीत वोल्टता के लिए पावर संधारित्र | भा मा 13585:भाग 1:1994 |
| 3. 2888587 | 09-05-2014 | प्रेसीसन इलेक्ट्रीकल्स गाला सं. 3 एवं 4, चौधरी इन्टरनेशनल इण्ड. इस्टेट विलेज नवधर, वसई पूर्व जिला : थाने 401202 | इलेक्ट्रॉनिक टाइप पंखा रेगुलेटर | भा मा 11037:1984 |
| 4. 2888284 | 20-05-2014 | एस एस पॉलीमर्स प्लॉट सं. जी-7, ओ.आ.डी.सी. इण्ड. इस्टेट उद्योग नगर, रिंगन वाडा, दमन-396210 | विद्युत संस्थापनों के लिए नलिकाएं भाग 3 विद्युतरोधी सामग्री के दृढ़सादे इस्पात नलिकाएं | भा मा 9537:भाग 3:1983 |
| 5. 2888789 | 21-05-2014 | स्टरलाईट टेक्नोलॉजीज लि. सर्वे सं. 209, फेस 2, पिपरिया इण्ड. इस्टेट, सिलवासा, जिला दादरा और नगर हवेली-396 230 | शिरोपरि प्रेषण प्रयोजनों के लिए एल्यूमिनियम चालक-भाग-1, एल्यूमिनियम लडदार चालक | भा मा 398:भाग 1:1996 |
| 6. 2889185 | 23-05-2014 | ग्लोबल केबल्स कृष्णा इण्ड. इस्टेट, फेज II, बी बिल्डिंग, यूनिट सं. 101/102/103 क्रम सं. 906/2, विलेज : अमली सिलवासा-396230, दादरा नगर हवेली | 1100 वो तक एवं सहित कार्यकारी वोल्टता के लिए पी वी सी रोधित केबल | भा मा 694:1990 |
| 7. 2889892 | 29-05-2014 | पॉलीकैब वायर प्रा. लि. 78-82, सिलवर इण्ड. इस्टेट, भीमपोर, दमन-396210 | शिरोपरि प्रेषण प्रयोजनों के लिए एल्यूमिनियम चालक-4, एल्यूमिनियम मिश्रधातु के लडदार चालक, (एल्यूमिनियम मैग्नीशियम सिलीकॉन टाईप) | भा मा 398:भाग 4:1996 |
| 8. 2889993 | 29-05-2014 | दि सुप्रीम इण्डस्ट्रीज लि., यूनिट सं. 3, गट सं. 47, 47/2, 48-50, 55-56, 69, 70, 72 एवं 73 जलगांव-गडेगांव, तालुका-जमनेर, जिला : जलगांव-425114 | अप्लैस्टिकित पॉलीविनायल क्लोराइड प्लास्टिक पाईपों और फिटिंग्स में उपयोग के लिए विलायक सिमेंट | भा मा 14182:1994 |
| 9. 2891778 | 29-05-2014 | विजय सब्रे सेफटी प्रा. लि., यूनिट 1, प्लॉट सं. 11, सर्वे सं. 46/एलपी, दमन गंगा इण्ड. इस्टेट, अथल, सिलवासा-भिलाड रोड, सिलवासा-396230 जिला : दादरा एवं नगर हवेली | श्वास संरक्षक उपकरण आधे चेहरे को ढकने के मुखौटे तथा केवल नाक और मुंह को ढकने के मुखौटे | भा मा 14746 : 1999 |

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

टी. कलैवाणन, प्रमुख (एमयूबीओ-ईईई)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 29th September, 2014

S.O. 2686.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

| Sl. No. | Licence No. | Grant Date | Name and address (factory) of the party | Product | IS No./Part/Sec Year |
|---------|-------------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| 1 | 2884680 | 02/05/2014 | Associated Cables Pvt. Ltd. C-9, MIDC, Kherdi, Tal. Chiplun, Distt. : Ratnagiri-415604 | Crosslinked Polyethylene Insulated PVC Sheathed Cables: Part I for working voltage upto and including 1100V | IS 7098:Part 1:1988 |
| 2 | 2884882 | 09/05/2014 | Vishwajeet Lomte Plot No. B-40, Sinanr, MIDC, Malegaon, Distt. : Nashik Maharashtra-422103 | Shunt Capacitors of Non self healing type for AC Power systems having a rated voltage upto and including 650 V | IS 13585:Part 1:1994 |
| 3 | 2888587 | 09/05/2014 | Precision Electriclas Gala No. 3&4, Choudhary International Industrial Estate Village Navghar, vasai (E), Distt. : Thane-401202 | Electronic Type Fan | IS 11037:1984 |
| 4 | 2888284 | 20/05/2014 | S.S. Polymers Plot No. G-7, OIDC Industrial Estate, Udyog Nagar, Ringanwada, Daman-396230 Daman & Diu | Conduits for Electricals Installa- tions: part 3 Rigid Plain conduits of insulating materials (superseding IS:2509) | IS 9537:Part 3:1983 |
| 5 | 2888789 | 21/05/2014 | Sterlite Technologies Ltd. Survey No. 209, Phase II, Piparia Indl. Estate, Silvassa-396230 Distt. : Dadra and Nagar Haveli, | Aluminium conductors for overhead Transmission Purposes: Part I Aluminium stranded conductors | IS 398:part 1:1996 |
| 6 | 2889185 | 23/05/2014 | Global Cables Krishna Indl. Estate, Phase II, B-Building, Unit No. 101/102/103, S.No. 906/2, Village Amli, Silvassa-396230, Dadra and Nagar Haveli | PVC Insulated Cables for working Voltages upto and including 1100 V IS 694:1990 | IS 694:1990 |
| 7 | 2889892 | 29/05/2014 | Polycab Wires Pvt. Ltd. 78-82, silver Indl. Estate, Bhimpore, Daman-396210 | Aluminium Conductors for overhead Transmission Puposes:Parts 4 Aluminium Alloy Stranded conductors (Aluminium magnesium Silicon type) | IS 398:Part 4:1994 |

| Sl. No. | Licence No. | Grant Date | Name and address (factory) of the party | Product | IS No./Part/Sec Year |
|---------|-------------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|----------------------|
| 8 | 2889993 | 29/05/2014 | The Supreme Industries Ltd., Unit No. 3 Gat No. 47, 47/2, 48-50,55-66, 69,70,72 and 73, Jalgaon-Aurangabad State Highway, At post : Gadegaon, Tal : Jamner, Distt. : Jalgaon-425114 | Solveni Cement for use with Unplasticized Polyvinylchloride Plastic Pipe and Fittings | IS 14182:1994 |
| 9 | 2891778 | 29/05/2014 | Vijay Sabre Safety Pvt. Ltd., Unit I Plot No. 11, Survey No. 46/LP, Daman Ganga Indl. Estate, Athal, Silvassa-Bhilad Road, Silvassa-396230, Distt.:Dadra and Nagar Haveli | Respiratory Protective Devices- Half Masks and Quarter Masks-Specification | IS 14746:1999 |

[No. CMD/13:11]

T. KALAIWANANA, Head (MUBO-EEE)

नई दिल्ली, 29 सितम्बर, 2014

का.आ. 2687.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं :—

अनुसूची

| क्र. संख्या | लाइसेंस संख्या | लाइसेंसधारी का नाम एवं पता | लाइसेंस के अंतर्गत वस्तु/प्रकम सम्बद्ध भारतीय मानक का शीर्षक | रद्द करने की तिथि |
|-------------|----------------|----------------------------|--------------------------------------------------------------|-------------------|
| कुछ नहीं | | | | |

[सं. केन्द्रीय प्रमाणन विभाग/13:13]

टी. कलैवानन, प्रमुख (एमयूबीओ-ईईई)

New Delhi, the 29th September, 2014

S.O. 2687.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each :

SCHEDULE

| Sl. No. | Licence No. | Name and address of the licensee | Article/Process with relevant Indian standard covered by the Licence | Date of cancellation |
|---------|-------------|----------------------------------|----------------------------------------------------------------------|----------------------|
| NIL | | | | |

[No. CMD/13:13]

T. KALAIWANANA, Head (MUBO-EEE)

श्रम और रोजगार मंत्रालय

नई दिल्ली, 29 सितम्बर, 2014

का.आ. 2688.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा चेन्नई पेट्रोलियम कार्पोरेशन लिमिटेड के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात् :—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में

अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—

- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा
 - (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
 - (ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
 - (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
 - (ङ.) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।
- (6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/13/2014-एसएस-I]

सुभाष कुमार, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 29th September, 2014

S.O. 2688.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Chennai Petroleum Corporation Limited from the operation of the said Act. The exemption shall be effective from the date of issue of notification for a period of one year.

2. The above exemption is subject to the following conditions namely :—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees’;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees’ State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :-
 - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of Section 44 for the said period; or
 - (ii) Ascertaining whether registers and records were maintained as required by the Employees’ State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to :
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other

documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption,

[No. S-38014/13/2014-SS-I]

SUBHASH KUMAR, Under Secy.

नई दिल्ली, 30 सितम्बर, 2014

का.आ. 2689.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा सेन्ट्रल सिल्क बोर्ड, बंगलोर के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, इस अधिसूचना जारी होने की तारीख से एक वर्ष की अवधि के लिए रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात् :—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी

विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;

- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;

(i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा

(ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

(iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ङ.) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

- (6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/14/2014-एसएस-I]

सुभाष कुमार, अवर सचिव

New Delhi, the 30th September, 2014

S.O. 2689.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Central Silk Board, Bangalore from the operation of the said Act. The exemption shall be effective from the date of issue of notification for a period of one year.

2. The above exemption is subject to the following conditions namely :—

(1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid, shall not be refundable;

(4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :-

(i) Verifying the particulars contained in any returned submitted under sub-section (1) of Section 44 for the said period; or

- (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
- (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
- (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to :
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption,

[No. S-38014/14/2014-SS-I]

SUBHASH KUMAR, Under Secy.

नई दिल्ली, 30 सितम्बर, 2014

का.आ. 2690.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा इस्को स्टील प्लांट ऑफ सेल, बर्नपुर, पश्चिम बंगाल के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, 01.10.2014 से एक वर्ष की अवधि के लिए रहेगी ।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात् :—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देने अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों

का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-

- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त अधिकारी या अन्य पदधारी इस अधिनियम के प्रयोजनार्थ आवश्यक समझता है; अथवा
 - (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियाँ और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
 - (ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
 - (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
 - (ङ.) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।
- (6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/27/2013-एसएस-1]

सुभाष कुमार, अवर सचिव

New Delhi, the 30th September, 2014

S.O. 2690.—In exercise of the power conferred by Section 88 read with Section 91A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of IISCO Steel Plant of Sail, Burnpur (West Bengal) from the operation of the said Act. The exemption shall be effective w.e.f. 01-10-2014 for a period of one year.

2. The above exemption is subject to the following conditions namely :—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';

- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :-
 - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of Section 44 for the said period; or
 - (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to :
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/27/2013-SS-I]

SUBHASH KUMAR, Under Secy.

नई दिल्ली, 30 सितम्बर, 2014

का.आ. 2691.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा मैसर्स डीयम इंडिया प्राइवेट लिमिटेड, नई दिल्ली को इस प्रतिष्ठान द्वारा जूतों एवं जूता-घटकों के विनिर्माण संचालित प्रशिक्षण कार्यक्रम के अंतर्गत तिहार जेल, नई दिल्ली के कैदियों द्वारा जेल परिसर में किए जा रहे कार्य के लिए अदा की गई वृत्तिका के कारण अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, इस अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि के लिए रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात् :—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा, जो कर्मचारी राज्य बीमा (साधारण)

विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;

- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—
 - (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा
 - (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
 - (ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
- (ङ.) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।
- (6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/09/2013-एसएस-I]

सुभाष कुमार, अवर सचिव

New Delhi, the 30th September, 2014

S.O. 2691.—In exercise of the power conferred by Section 88 read with Section 91A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts M/s Deiem (India) Private Limited, New Delhi from the operation of the said Act on account of stipend paid for work being done by inmates of Tihar Jail, New Delhi under the training programme run by the establishment (manufacturing of shoes & shoes components) in the jail premises. The exemption shall be effective from the date of issue of notification for a period of one year.

2. The above exemption is subject to the following conditions namely :—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :—
 - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of Section 44 for the said period; or

(ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to :

- (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises;
 - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/9/2013-SS-I]

SUBHASH KUMAR, Under Secy.

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2692.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 271/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-12012/421/96-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2692.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 271/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen, received by the Central Government on 26/09/2014.

[No. L-12012/421/96-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/271/97

PRESIDING OFFICER : SHRI R.B. PATLE

Shri Madanlal Jatav,
Sahid Colony,
Byawra, Distt. Raigarh (MP)Workman

Versus

Regional Manager,
Bank of India,
Regional Office, Nirma Mansion,
Gurukripa, A.G. Office Road,
GwaliorManagement

AWARD

Passed on this 11th day of September, 2014

1. As per letter dated 5-9-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No.L-12012/421/96/IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Bank of India, Gwalior in terminating the services of Shri Madanlal Jatav w.e.f. 16-3-90 without following

the provision of Section 25 of I.D. Act, 1947 is legal and justified? If not, to what relief the said workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/1 to 2/4. The case of Ist party workman is that he was appointed as casual sweeper in Biora branch of Bank of India on 24-10-85. His name was sponsored through Employment Exchange. He was continuously working with IInd party from 24-10-85 to March 1990. Other three workman were also appointed him such as Shri Satish Sharma, Nirmal Jain and Kailash Pushpat were regularized in the service. That workman was illegally retrenched by Branch Manager. That officers of the Bank issued certificate about his working and behavior. There was no misconduct on his part. His services were terminated without notice. He was not paid retrenchment compensation. His services were not regularised. Workman belongs to SC. He was not served notice neither one month's pay was paid to him. Termination of his service is in violation of Section 25-F, G, H of I.D.Act. Juniors were regularized in service. Any enquiry was not conducted against him. No punishment was imposed. On such ground workman prays for his reinstatement with back wages.

3. Management of IInd party filed Written Statement at Page 7/1 to 7/8. IInd party raised preliminary objection that Government has made reference which doesnot exist. The order of reference shows that Government has already decided that there were employee-employer relationship which is factually incorrect. The reference is made mechanically without application of mind. The order of reference is illegal. IInd party has also referred to ratio held in various cases.

4. On facts, IInd party submits that appointments in Bank are covered by statutory rules, regulations. Such procedure was not followed while appointment of the workman. The engagement of workman is illegal. Regional Manager can make employment to subordinate staff. Workman was not appointed by Regional Manager. Any appointment made de hors the rules of appointment is illegal. Workman is not entitled to any relief. It is further submitted that when person is appointed on daily wages on contract basis, the contract ends at end of day. It does not amount to retrenchment in view of Section 2(oo) of I.D. Act in violation to Section 25-F, G, H, N is denied. It is submitted that reservation policy of Government of India cannot be ignored. The provisions about reservation are mandatory.

5. Workman was engaged in Biora branch as casual/temporary labour in leave vacancy on need basis. He was not continuously working from 24-10-85 to March 90. He has not completed 240 days continuous service. Workman was not employee of the Bank. There was no

question of conducting enquiry against him. The recruitment policy was not followed for engaging workman. He is not entitled for regularization. On such ground, IInd party prays for rejection of claim.

6. Workman has filed rejoinder reiterating his contentions in statement of claim.

7. Considering pleadings between parties, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| (i) Whether the action of the management of Bank of India, Gwalior in terminating the services of Shri Madanlal Jatav w.e.f. 16-3-90 without following the provision of Section 25 of I.D.Act, 1947 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

8. Workman is challenging termination of his service for violation of Section 25-F, G, H, N of I.D.Act. Management denies that workman was engaged casually on temporary basis as per exigencies.

9. Workman filed affidavit of his evidence stating that he was working in Biora branch from 24-10-85 to 16-3-90. He was illegally terminated without notice. Retrenchment compensation was not paid. He has also stated that in September 1989, he was transferred to Kacheri branch. That other employees Durga Prasad, Harish Chandra Jatav, Rajendra Kumar Kashriya, Durga Prasad S/o Laluji, Kailash, Ramgopal, Rodsingh, Chhotelal Lekhraj appointed with him were regularized. His services were terminated. In his cross-examination, workman says appointment letter was not given to him. He was appointed as Badli peon. He was working in the Bank from 1985 to 1990. He was unable to tell his working days. He was orally transferred to other branch. The employees appointed with him as shown in Para-9 of his affidavit were working as badly peon. He denied suggestion that he has not completed 240 days service.

10. Affidavit of management's witness Shri Debendra Kumar Biswal is filed on record but was not produced for cross-examination. Management's witness Anil Kumar in his affidavit supported contentions of IInd party that workman was engaged as casual temporary labour in leave vacancy on need basis. He was not appointed by the Bank. There was no question of his retrenchment. Attendance particulars were maintained by Bank for purpose of payments shown in Exhibit M-1. In his cross-examination, management's witness says workman was not working during the period January 2005 to 7-6-2006 in Biora branch. He further says that workman was not

terminated. He was not retrenched. There was no question of retrenchment compensation. He denies that workman completed 240 days continuous service during 1990. Workman was paid daily wages. There was no point of calling workman for work. Workman had not committed any misconduct. Other persons working with workman were deserving candidates. He claims ignorance about workman belongs to ST category. He also denies that workman completed 240 days. Shri Durga Prasad, Harish Chandra Jatav, Rajendra Kumar Kashriya, Durga Prasad S/o Laluji, Kailash, Ramgopal, Rodsingh, Chhotelal Lekhraj appointed with him were not regularized. Compliance of Section 25-F of I.D.Ac was not required.

11. Management's witness Purushottam Kulmi in his affidavit in para-14 has stated that in 1997, head office decided to regularize casual labours as sweepers and accordingly were given instruction to concerned regions for appointment of 30 eligible candidates including Mr. Jatav w.e.f. 15-4-97. It was decided to appoint Jatav as part time sweeper on consolidated scale wages at Kachri branch subject to and only after withdrawal of his case in CGIT but Shri Jatav did not agreed for the same. Affidavit is also devoted that workman was not appointed by the Bank. He not completed 240 days continuous service. In his cross-examination, management witness says he had not engaged workman in Bank at Voda branch during May 2009 till June 2010. Workman was engaged on casual basis by Branch Manager within his powers. Workman was engaged as per exigencies. Workman was supplying drinking water, taking file ledgers etc. his leave register was not maintained. His wages were deposited in his account. Some of the casual labours were regularized as part time employees. Those employees had completed 240 days working during period of one year. Workman was not served notice. He was not paid retrenchment compensation. Settlement was entered to regularize services to casual badlis. Letter dated 7-1-91 by Union was not replied by management.

12. The documents produced by workman Exhibit W-1 is copy of award passed by this Tribunal in R/128/91. Exhibit W-2 is copy of application submitted before ALC by workman. Exhibit W-3 is also application submitted to ALC. Workman has alleged that other persons engaged with him were regularized and he was discriminated. Exhibit W-4 is letter given by ALC, Bhopal calling reply of IInd party. Exhibit W-5 is letter of appointment given to workman on 24-10-85, Exhibit W-6 is letter of appointment issued to Durga Prasad as badli employee.

13. Particularly the management's witness Shri Purushottam Kulmi in para-14 of his affidavit clearly says that in 1997, instructions were given to 30 casual labors including workman. However it was subject to withdrawal of his case before this Tribunal. It was not

accepted by workman. Section 28 of Contract Act provides-

“Every agreement, by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void to that extent.”

In present case, evidence shows that other employees engaged with workman were regularized. The workman was also offered regularization subject to withdrawal of his case before this Tribunal. As per Section 28 of Contract Act, such condition is void but the offer remains valid. Workman was discriminated as he did not agree for withdrawal of his case. From above, it is clear that termination of services of workman is illegal. Workman is entitled to be regularized as part time sweeper on consolidated scale w.e.f. 15-4-97. However his services were terminated without notice, retrenchment compensation was not paid. Therefore I record my finding in Point No.1 in Negative.

14. On the above point, reliance is placed by Shri A.K.Shashi, counsel for management in Case of Bangalore Metropolitan Transport Corporation versus T.V.Anandappa reported in 2009(17) Supreme Court Cases-47. Their Lordship dealing with casual labour, daily wager, temporary employee, badly worker-protection under I.D.Act is not available.

Ratio in above cited case cannot be applied I present case as in 1997 workman was also offered appointment as part time employee on consolidated salary as stated in Para-14 of the management's witness and as other workers were already regularized. For the same reasons, ratio held in Case of Jagbir Singh versus Haryana State Agriculture Marketing Board and another reported in 2009(15) SCC-327 cannot be beneficially applied to present case.

15. Point No.2- the termination of services of workman is illegal as per finding on Point No.1 w.r.t. question whether workman is entitled to regularization. Para-14 of management's witness Shri Purushottam Kulmi supports claim for regularization of workman as part time sweeper on consolidated scale. Accordingly I record my finding in Point No.2.

16. In the result, award is passed as under:-

- (1) The action of the management of Bank of India, Gwalior in terminating the services of Shri Madanlal Jatav w.e.f. 16-3-90 is not legal and proper.
- (2) IInd party is directed to reinstate workman as part time sweeper on consolidated scale of wages with continuity of service but without back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 128/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-12012/105/96-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2693.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 128/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen, received by the Central Government on 26/09/2014.

[No. L-12012/105/96-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/128/97

PRESIDING OFFICER : SHRI R.B.PATLE

Shri Rajendra Kumar,
Marimata, Mahalgaon,
Lashkar, Gwalior, MP

.....Workman

Versus

Chairman & Managing Director,
Bank of India,
Head Office, Express Towers,
Ariman Point,
Bombay

.....Management

AWARD

Passed on this 26th day of August 2014

1. As per letter dated 15-5-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/105/96/IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Bank of India in terminating the services of Shri Rajendra Kumar w.e.f. 18-10-92 is legal and justified? If not,

to what relief the said workman is entitled and from what date?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 5 to 7 challenging termination of his service for violation of section 25-F of I.D.Act.

3. IInd party filed written statement at Page 17 to 25 denying claim of the workman on various grounds. Violation of Section 25-G, H of I.D.Act is denied.

4. Affidavit of evidence of workman was filed. Management also filed affidavit of evidence of Shri Vijay Sharma. He was not produced for cross-examination.

5. Workman submitted application for taking case on board and application for withdrawal of the case. Management gave no objection. Workman is identified by Narayan Behera, Manager, HR&IR, bank of India, Zonal office, Bhopal. Zerox copies of IDs are also produced on record. Workman was explained contents of his application. He has clearly stated before me that he is withdrawing his case. Therefore his application is accepted.

6. In the result, No Dispute Award" is passed.

7. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 93/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-12011/8/2012-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 93/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen, received by the Central Government on 26/09/2014.

[No. L-12011/8/2012-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI

Wednesday, the 20th August, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 93/2012

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Union Bank of India and their workman)

BETWEEN

| | |
|------------------------------|------------------|
| The General Secretary | : 1st Party/ |
| Union Bank Employees | Petitioner Union |
| Union – Tamilnadu | |
| Singapore Plaza, IIIrd Floor | |
| 164, Linghi Chetty Street | |
| Chennai-600001 | |

AND

| | |
|----------------------------|--------------|
| The Deputy General Manager | : 2nd Party/ |
| Union Bank of India, | Respondent |
| Regional Office | |
| 139, Broadway | |
| Chennai-600108. | |

Appearance :

| | |
|--------------------|------------------------------|
| For the 1st Party/ | : M/s K.M. Ramesh, Advocates |
| Petitioner Union | |
| For the 2nd Party/ | : Ms. T.S. Gopalan & Co., |
| Respondent | Advocates |

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/8/2012-IR(B.II) dated 22.11.2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Union Bank of India, Regional Office, Salem in imposing the punishment of Compulsory Retirement upon Sri P. Manickam w.e.f. 05.01.2011 is legal and justified? What relief to which the concerned workman is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 93/2012 and issued notices to both sides. Both sides entered appearance through their counsel and filed claim and counter statement respectively. The petitioner has also filed a rejoinder after the counter statement was filed.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner is a Regd. Trade Union represented by its General Secretary. P. Manickam who is a member of the Petitioner Union was appointed in the Respondent Bank as Part-Time Sweeper in the year 1981. He was promoted as Sub-Staff / Daftary and was posted in Vazhapadi Branch in 1989. He was discharging his duties faithfully and efficiently. On 22.09.2001 a Show Cause Notice was issued to him alleging that on 19.08.1999 he had made a cash scroll entry for Rs. 30,000/- and issued token to a woman who impersonated another and had failed to identify the depositor while issuing token and this had resulted in premature closure of DRIC. It was also alleged that he had failed to ensure safe keeping of records. The Respondent had lodged a complaint with the District Crime Branch, Salem regarding the incident. After investigation a charge sheet was laid before the Judicial First Class Magistrate, Salem and the case was taken on file. The Respondent did not proceed with the departmental action in view of the pendency of the criminal case, on the basis of Clause-4 of Bipartite Settlement. The Respondent issued a supplementary charge sheet dated 17.12.2008 on Manickam stating that the explanation given by him earlier is not convincing and also giving further acts of omissions and commissions on the part of Manickam. It was alleged that on 25.03.1998 he had availed a loan of Rs. 15,000/- in the name of Sivabakhiam, while earlier loan of Rs. 12,000/- sanctioned against the security given by Sivabakhiam remained unadjusted. Another allegation was that Manickam had borrowed Rs. 10,000/- from Chellappan. It was also alleged that he had collected money from customers during Diwali in the year 2000 telling that it is to be shared among all the staff. He is said to have borrowed money from customers and invested in Chit Funds. No explanation was given for the inordinate delay in issuing the supplementary charge sheet. Manickam had filed a Writ Petition before the High Court of Madras and the same has been allowed. After this, the Respondent has decided to continue enquiry in respect of supplementary charge sheet disassociating the earlier charge sheet. On conduct of enquiry, the Enquiry Officer submitted a report with the finding that two of the charges are proved. Manickam had not committed the misconducts alleged. The punishment of Compulsory Retirement was imposed on Manickam without any justification. An order may be passed holding that there is no justification in the punishment and also directing the Respondent to reinstate Manickam in service with continuity of service, back wages and all other attendant and consequential benefits.

4. The Respondent has filed Counter Statement contending as follows:

On the basis of investigation conducted, a Show Cause Notice has been issued to Manickam, the Sub-Staff of Vazhapadi Branch of the Respondent for making cash scroll entry no. 20 for a LAD 1498 for Rs. 30,000/- on 19.08.1999 and issuing token to a woman who impersonated as Lakshmi. Manickam's failure to identify the depositor while issuing token has resulted in premature closure of the DRIC for Rs. 30,000/-. A Police Complaint was filed against Manickam regarding the incident. In view of the pendency of the criminal case further proceedings could not be pursued against the workman. In the course of audit of Vazhapadi Branch on 06.09.1999 it was noticed that a loan with an outstanding of Rs. 36,235/- in the name of Sivabakhiam did not have the deposit certificate. The Son of Sivabakhiam who visited the bank denied having taken a second loan. On investigation, the involvement of Manickam in the incident was revealed. Apart from this in 2008 Manickam had collected deepawali inam from the customers stating that it was to be shared among the staff. The staff members have denied having received the share. Manickam had taken loan of Rs. 5,000/- from an account holder. As per the service conditions of the Bank, no employee can borrow money from the constituents of the bank. A Charge Sheet was issued on 17.12.2008 listing out the acts of misconducts committed by Manickam. As he did not submit satisfactory explanation, an enquiry was conducted. In the enquiry the charge relating to the loan in the name of Sivabackiam was found not established. However, the remaining charges were found proved. The punishment of Compulsory Retirement from service with superannuation benefits was imposed on Manickam. The punishment is fully justified and is valid in law. The concerned workman is not entitled to any relief.

5. The petitioner has filed a rejoinder in answer to the Counter Statement, denying the allegations in the Counter Statement and reiterating his case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and Ext.W1 to Ext.W11 and Ext.M1 to Ext.M29.

7. The points for consideration are :

- (i) Whether the action of the management in imposing the punishment of Compulsory Retirement upon the concerned workman is legal and justified.
- (ii) What is the relief, if any to which the workman is entitled?

The Points

8. Enquiry was conducted against the petitioner on the basis of Supplementary Charge Sheet dated 17.12.2008 which is marked as Ext.M3. The Supplementary Charge Sheet refers to the explanation submitted by the concerned workman on a previous date

i.e. 11.10.2001 and states that the explanation of 11.10.2001 is neither convincing nor satisfactory. It is stated in the Charge Sheet that the concerned workman Manickam is informed that further acts of omissions and commissions have been reported against him. The Charge Sheet which resulted in the issue of a Supplementary Charge Sheet itself is not produced. However, Ext.M1 the show cause memo issued to Manickam and the Claim Statement gives an indication of the previous charge against Manickam. As seen from the Show Cause Memo a DRC for Rs. 50,000/- dated 03.06.1996 stood in the name of one Lakshmi with maturity value of more than Rs. 1,00,000/- Lakshmi had availed a loan of Rs. 35,000/- against the said deposit. On 19.08.1999 a second loan of Rs. 30,000/- was raised against the same deposit and the second loan was adjusted on 17.02.2000 prematurely and balance amount was paid in cash. Since the Deposit Receipts were adjusted towards the second loan the first loan with interest remained outstanding to that extent. It is alleged that Manickam had made the cash scroll entry for Rs. 30,000/- on the day on which the second loan was taken, that he had issued token to the woman who impersonated as Lakshmi and his failure to identify the depositor while issuing token has resulted in premature closure of the deposit and payment of cash pending adjustment of the loan in the name of Lakshmi. The explanation given by Manickam to Ext.M1 memo on 22.09.2001 is the one which was referred to as unconvincing and unsatisfactory in the Supplementary Charge Sheet dated 17.12.2008.

9. After making reference to the previous memo the Supplementary Charge Sheet refers to the further acts of omissions and commissions on the part of Manickam. The first allegation is that on 25.03.1998 a loan of Rs. 15,000/- was fraudulently availed against the deposit in the name of Sivabakhiam while the earlier loan of Rs. 12,000/- sanctioned against the same security remained unadjusted. It is stated that apart from the loan in the name of Lakshmi, the loan availed in the name of Sivabakhiam also is the handiwork of Manickam. The next allegation is that Manickam had borrowed Rs. 5,000/- from one Chellappan on 01.03.1998 and Chellappan had lodged a complaint to the Branch Manager on 18.04.2001. There is a further allegation that Manickam had collected money during Diwali in the year 2000 from customers telling them that the collection should be shared among all the staff members except the Branch Manager. He is alleged to have borrowed money from customers and invested it in Chit Funds and Recurring Deposits.

10. So far as the incident relating to the account in the name of Lakshmi is concerned the Respondent was not able to proceed with the departmental enquiry against Manickam since a criminal case was pending regarding the same incident. The case seems to be still pending.

11. On receiving Ext.M3, Supplementary Charge Sheet the concerned workman had approached the High Court seeking to forbear the Respondent from proceeding with the domestic enquiry. The Writ Petition was disposed with a direction that the departmental proceedings on the basis of the First Charge Sheet has to be deferred till the conclusion of criminal trial in CC 33/2001 on the file of Judicial Magistrate No. 6, Salem. The Respondent has proceeded with the enquiry on the Supplementary Charge Sheet without any reference to the charge in respect of the misconduct relating to the account of Lakshmi. The Enquiry Officer has submitted report finding that the allegation that Manickam had availed loan of Rs. 15,000/- against the account in the name of Sivabakhiam while the earlier loan subsisted is not proved. The Enquiry Officer has found that the charge that the concerned workman borrowed Rs. 5,000/- from one Chellappan and the charge that he had collected money from customers in the year 2000 are proved. The misconducts proved were brought under the category of gross-misconduct doing acts prejudicial to the interests of the bank and minor misconduct of collecting money from Bank's customers within the premises of the bank. It is on the basis of this enquiry report the punishment of Compulsory Retirement from service was imposed on the petitioner.

12. So far as the first charge i.e. the charge of availing loan in the name of Sivabakhiam is concerned, the Enquiry Officer has found that the charge is not proved. His finding has become final. There is no necessity to discuss this charge before this Tribunal.

13. The Second Charge against the petitioner is that he had borrowed Rs. 5,000/- from Chellappan. The Enquiry Officer has found that this charge against the concerned workman is proved. The surprising aspect is that the incident resulting in the charge has occurred on 01.03.1998 much before the Show Cause Notice in respect of the incident relating to the availing of loan against the deposit of Lakshmi by impersonation. Yet there is no reference to this incident in the Charge Memo. Again, one does not know how the mere borrower of Rs. 5,000/- from a private individual becomes misconduct.

14. The Enquiry Officer has entered a finding that the charge is proved on the basis of the evidence of MW2 in the enquiry proceedings. MWs 1 and 3 the other witnesses examined by the Management in the enquiry proceeding had nothing to do with the incident at all. MW1 was the Manager of the concerned branch at the time of enquiry. Though MW3 was the Manager at the time of the incident he has not given any evidence regarding this charge. MW2 is the one who is said to have conducted investigation in the misconducts allegedly committed by the workman. However, the report of the investigation was not marked.

15. What the Enquiry Officer has stated is that the charge is proved through the evidence of MW2. He has relied upon the evidence given by MW2 that he had met Chellappan, the lender and he had confirmed that the complaint of borrowal of Rs. 5,000/- is true. Chellappan himself is not examined. MW2 does not seem to have recorded the statement of Chellappan also. Ex.W1 is the copy of letter said to have been written by Chellappan to the then Branch Manager on 18.04.2001 complaining that the concerned workman had borrowed Rs. 5,000/- from him and the Branch Manager is to help him to recover the money from the workman. Ext.W3 is another letter allegedly written by Chellappan on 31.10.2001 requesting again to help him to recover the money from the workman. It is in spite of these two letters there is no reference to the alleged misconduct of borrowal of money by the workman from Chellappan in Ext.M1, the Show Cause Notice. Ex.W6 is also said to be a letter written by Chellappan to the then Branch Manager on 20.10.2010. In this what is stated is that the amount of Rs. 5,000/- was actually borrowed by one Jayaraj and the concerned workman was only a guarantor to the same. There is no evidence regarding the authenticity of any of these letters. More than this there is no acceptable evidence to show that the concerned workman had borrowed amount from Chellappan. Without any foundation in evidence the Enquiry Officer has found that the charge in this respect is established against the workman. The finding is only to be set aside.

16. The next charge against the workman is that he had collected money from customers of the Bank during Diwali in the year 2000 making them believe that the amount is to be shared among all the staff members except the Branch Manager. MWs 1 and 2 in the enquiry proceedings were not in a position to support this case of the Management. As already stated MW1 was a stranger to the alleged incident, he having taken charge of the concerned branch on a later date. So far as MW2 is concerned his knowledge regarding the incident is based on the information given by the staff members. So this evidence also is not material.

17. The Enquiry Officer has relied upon the evidence of MW3 to enter a finding that the concerned workman had collected amount from customers in the year 2000. What is the evidence given by MW3 who was the then Branch Manager in this respect? According to this witness, the concerned workman had given a letter of confession on 25.10.2000 confessing his involvement in collection of Diwali Inam. According to him though the letter was given, subsequently the workman had threatened to commit suicide if the letter is used against him and the letter was destroyed. However a photocopy of the alleged letter was produced in the enquiry proceedings and is marked here as Ext.W7. Ext.W8 is a copy of a complaint said to have been containing the

signature of staff of Vazhapadi branch against the concerned workman for his collecting amount in the name of other staff also was proved through this witness. MW3 has stated that he is also one of the signatories to this complaint addressed to the AGM of Regional Office. He has stated that confession letter was prepared in his hand as requested by the concerned workman. According to him, when the letter was written the workman as well as other staff members were present. The Enquiry Officer has referred to the evidence of MW3 and the evidence given by MW1 and MW2 that they were informed of the incident by the staff to enter a finding that the charge is proved against the workman.

18. The workman has taken a stand that he has never written a letter of confession. Exc.W10 is the representation given by the workman to the department of Personnel Nodal Regional Office. He has stated in this that the recitals in the letter were written by MW3 and the Xerox copy of his signature must have been obtained. It is admitted by MW3 himself that the alleged letter of confession is in his own hand. Even though MW3 has stated that other staffs of the bank were also present at the time when the letter was written, none of them were examined. Though MW3 has stated that the workman had put his signature in the letter he has not stated that the signature was put by him, after he has understood the contents of the letter. The concerned workman is not an illiterate man. If he was very much willing to give a letter of confession nothing prevented him from writing the letter himself. Ex.W8 is the complaint said to have been given by the staff of the branch to the Chief Manager against the concerned workman. This contains the signature of MW3, as stated. However, in the absence of evidence of any of the other staff the veracity of this letter also could not be ascertained. Even though it is stated that the staff came to know about the collection of money by the concerned workman from one of the customers from whom also he had collected money, no attempt has been made to examine that person as well. So there is no direct evidence to show that the concerned workman has been collecting amount from customers. In the absence of any such evidence a confession letter allegedly written by the concerned workman, which is not properly proved is not sufficient to establish the case that the concerned workman had collected money from customers.

19. Apart from the above is the fact that the Bank has chosen to proceed against the concerned workman on this charge after a lapse of several years. Even assuming that the incident alleged had happened, the bank is to be assumed to have dropped the entire matter in the absence of its taking any initiative to proceed against the workman within a reasonable time. Probably, the fact that the earlier charge against the petitioner could not be proceeded against in view of the pendency of the criminal case, persuaded the bank to proceed against the workman

digging out incidents which were buried long ago. I find that the Respondent has not proved this third charge against the workman also. The punishment imposed on the workman is only to be set aside. Accordingly an award is passed as follows:

- (i) The Respondent is directed to reinstate the concerned workman, Manickam in service within one month.
- (ii) The Respondent shall pay 50% of the back wages to the workman from the date of dismissal to the date of the reinstatement, within one month. If the amount is not paid in the prescribed time, it will carry interest @ 9% per annum.
- (iii) The workman will be entitled to continuity of service and all other attendant benefits.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 20th August, 2014)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : WW1, Sri P. Manickam
Petitioner Union

For the 2nd Party/ : MW1, Sri R. Loganathan
Management

Documents Marked :

On the petitioner's side

| Ex.No. | Date | Description |
|--------|------------|-----------------------------------------------------------------------------------------------------------------|
| Ex.W1 | 09.04.2001 | Copy of the complaint from Staff Members of Valapady Branch, UBI to the Asstt. General Manager, UBI, Coimbatore |
| Ex.W2 | 18.04.2001 | Copy of letter from M. Chellappan to the Branch Manager of Valapady Branch, UBI with postal cover |
| Ex.W3 | 31.10.2001 | Copy of letter from M. Chellappan to the Deputy General Manager, UBI, Coimbatore |
| Ex.W4 | 01.08.2010 | Copy of letter from A. Vairaperumal to the Chief Manager, UBI, Chennai |
| Ex.W5 | Undated | Copy of letter from M. Chellappan to the petitioner enclosing his letter dated 20.10.2010 |

| | | |
|--------|------------|----------------------------------------------------------------------------------------------------|
| Ex.W6 | 20.10.2010 | Copy of letter from M. Chellappan to the Chief Manager, HRM, UBI |
| Ex.W7 | 25.10.2010 | Copy of letter from P. Manickam to the Branch Manager, Valapady Branch, UBI |
| Ex.W8 | 02.11.2010 | Copy of representation from M/s G. Senthilkumar and others to the Chief Manager, HRM, UBI, Chennai |
| Ex.W9 | xxx | Copy of cover containing copy of letter dated 02.11.2010 sent by M/s G. Senthilkumar and others |
| Ex.W10 | 03.12.2010 | Copy of representation from P. Manickam to the Department of Personnel, Nodal Office, UBI, Chennai |
| Ex.W11 | 18.11.2011 | Copy of representation from P. Manickam to the General Manager (P&HR), UBI, Mumbai |

On the Management's side

| Ex.No. | Date | Description |
|--------|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Ex.M1 | 22.09.2001 | Show Cause Memo to P. Manickam |
| Ex.M2 | 11.10.2001 | Explanation of P. Manickam to the Show Cause Memo dated 22.09.2001 |
| Ex.M3 | 17.12.2008 | Charge Sheet issued to P. Manickam |
| Ex.M4 | 23.01.2009 | Explanation of P. Manickam to the charge sheet dated 17.12.2008 |
| Ex.M5 | 04.10.2001 | Notice from Judicial Magistrate No. III, Salem – conditional bail |
| Ex.M6 | 10.02.2010 | Order of Hon'ble High Court of Madras in WP No. 16175/2009 and MP Nos. 1 and 2 of 2009 filed by P. Manickam against the Respondent |
| Ex.M7 | 25.05.2010 26.05.2010 05.06.2010 21.07.2010 And 02.08.2010 | Proceedings of Enquiry |
| Ex.M8 | 30.08.2010 | Findings of the Enquiry Officer in respect of charge sheet dated 17.12.2008 and Show Cause Memo dated 18.02.2009 |
| Ex.M9 | 27.10.2010 | Order of Disciplinary Authority proposing punishment of compulsory retirement from |

| | | | | | |
|--------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | service of the Bank and granting personal hearing dated 13.11.2010 to the CSE on the proposed punishment | Ex.M22 | 28.05.2011 | Proceedings of personal hearing by the Appellate Authority |
| Ex.M10 | 03.12.2010 | Proceedings of personal hearing before DA | Ex.M23 | 15.07.2011 | Sahayak Meta Pradampat – Communication from AGM-IR to P. Manickam in Hindi enclosing the order of Appellate Authority dated 04.07.2011 confirming the order of the Disciplinary Authority |
| Ex.M11 | 31.12.2010 | Imposing the punishment of compulsory retirement from the services of the bank for gross-misconduct and imposing punishment of censure for minor misconduct | Ex.M24 | 01.08.2011 | Industrial Dispute raised by Union Bank Employees Union – Tamil Nadu – regarding – P. Manickam before ALC (C), Chennai |
| Ex.M12 | 19.08.1999 | Union Bank of India – Valapadi Branch –Cash Scroll Book (Item/ S.No. 20) | Ex.M25 | 08.10.2011 | Management reply to ALC(C), Chennai |
| Ex.M13 | 10.05.2010 | Communication from Respondent to P. Manickam directing the CSE to submit his explanation to the supplementary charge sheet dated 17.12.2008 | Ex.M26 | 05.09.2001 | Complaint from Branch Manager of Union Bank of India, Valapady Branch to Superintendent of Police, Salem |
| Ex.M14 | 10.08.2010 | Letter from Management Representative addressed to Mr. R. Prabhakar, Chief Manager, enclosing written proof dated 09.08.2010 with a copy to CSE P. Manickam | Ex.M27 | 05.09.2011 | Copy of FIR |
| Ex.M15 | 28.08.2010 | Letter from Defence Representative enclosing the written submission on behalf of P. Manickam, Charge Sheeted Employee | Ex.M28 | 14.11.2011 | Rejoinder of Union to the Counter of the Management before ALC (C) dated 14.11.2011 – Chennai – with Annexures – D1, D2 and D5 (D5=DEX-4) |
| Ex.M16 | 18.11.2010 | Letter from Disciplinary Authority to P. Manickam re-scheduling the personal hearing on 25.11.2010 | Ex.M29 | 28.11.2011 | Notice from District Crime Branch, Salem requiring to enquire six employees of the branch |
| Ex.M17 | 25.11.2010 | Letter from Disciplinary Authority to P. Manickam re-scheduling on his request the personal hearing to 03.12.2010 | नई दिल्ली, 26 सितम्बर, 2014 | | |
| Ex.M18 | 05.02.2011 | Appeal from P. Manickam to General Manager – P & HR, Appellate Authority | का.आ. 2695. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दि इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 160/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था। | | |
| Ex.M19 | 01.03.2011 | Communication from AGM-IR to P. Manickam granting personal hearing on 28.03.2011. | [सं. एल-39025/01/2010-आईआर (बी-II)] | | |
| Ex.M20 | 21.04.2011 | Letter from I.R. Department, Central Office of the Bank to Manickam posting the personal hearing to 16.05.2011 at his request | रवि कुमार, अनुभाग अधिकारी | | |
| Ex.M21 | 04.05.2011 | Letter from Chief Manager-IR to P. Manickam postponing the personal hearing from 16.05.2011 to 28.05.2011 | New Delhi, the 26th September, 2014 | | |
| | | | S.O. 2695. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 160/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of The Indian Bank and their workmen, received by the Central Government on 26/09/2014. | | |
| | | | [No. L-39025/01/2010-IR (B-II)] | | |
| | | | RAVI KUMAR, Section Officer | | |

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

Present : Smt. M. VIJAYALAKSHMI, Presiding Officer

Dated the 6th day of February, 2014

INDUSTRIAL DISPUTE L.C. NO. 160/2002

Between:

Sri N. Venkateshwar Rao,
 S/o M. Somaiah,
 R/o Ward No.43, Samathapur Colony,
 New Nagole, Hyderabad.
 Ranga Reddy DistrictPetitioner

AND

The Zonal Manager cum
 Disciplinary Authority,
 The Indian Bank, Zonal Office,
 Liberty Plaza, 4th Floor,
 Himayath Nagar, HyderabadRespondent

Appearances:

For the Petitioner : M/s. G. Ravi Mohan,
 R. Devender Reddy,
 G. Srinivasa Reddy &
 G. Naresh Kumar, Advocates

For the Respondent : Sri Ambadipudi Satyanarayana,
 Advocate

AWARD

This is a petition filed by Sri N. Venkateshwara Rao, the workman invoking Sec.2A(2) of the Industrial Disputes Act, 1947 seeking for setting aside the termination order dated 18.6.1998 passed by the Respondent and consequently directing the Respondent to reinstate the Petitioner into service with continuity of service, back wages and all attendant benefits.

2. The averments made in the petition in brief are as follows:

Petitioner was appointed as a sub-staff with the Respondent bank on 27.9.1975. Initially he worked in Narayanaguda branch. He was promoted to the post of clerk in the year 1985. He has been discharging his duties to the utmost satisfaction of his superiors since his appointment. While so he was issued with chargesheet cum show cause notice dated 22.7.1994 with the following charges:

- “a) That you have made fictitious entries in the dispatch register showing the dispatch of some letter/ correspondence to some other branch/office, not addressed to/copied to in the letter.

Thereby, you have withdrawn the amount in excess of what actually incurred for postage and misappropriated the bank funds. The list of such items is given in Annexure A.

- b) That you have shown in the Dispatch register for dispatch of some letters, higher amounts than actually required for the same.

Thereby, you have withdrawn the amount in excess of what actually incurred for dispatch of letter/ correspondence and misappropriated the bank funds. The list of such items is given in the Annexure.B.

- c) That you have shown in the dispatch register amounts higher than actually required for dispatch of circular to the branches.

Thereby, you have withdrawn in excess of what actually required for dispatch of circulars and misappropriated the bank funds. The list of such items is given in Annexure C.

- d) That you have shown fictitious entries in the letter dispatch register showing the dispatch of some letters/correspondence more than once. Thereby you have misappropriated bank funds by withdrawing the amount in excess of what actually incurred for dispatch of the letters/correspondence. The list of such items is given in the Annexure.D.

- e) That you have shown dispatch of letters to various departments in central office, Madras separately instead of in a single envelop and withdrawn amount more than actual expenditure.”

Thereby, you have misappropriated the bank funds. The dates on which such entries are made are given in the Annexure. E.

Petitioner gave his representation on 1.10.94 requesting for supply of the material and documents on which the Respondent relief upon. For that Respondent issued letter dated 7.3.95 permitting the Petitioner to verify the records in the vigilance department by fixing the date in advance in consultation with the Zonal office. Petitioner made another representation dated 16.3.95 requesting him to permit to verify the record with the help of assistant and also to pay subsistence allowance along with arrears. But inspite of several demands Petitioner was not permitted to examine the documents. Finally without considering the facts and circumstances and Enquiry Officer was appointed to conduct enquiry into the charges. He conducted enquiry in gross violation of principles of natural justice and found the Petitioner guilty of the charge in his enquiry report dated 27.6.97. Petitioner gave his objection to the enquiry report on 1.8.97. Respondent issued show cause notice of removal from service on 16.5.98 for which Petitioner replied

denying the allegations. Finally Petitioner was issued with the proceedings dated 18.6.98 discharging the Petitioner from service without disqualifying of future employment. He was permitted to give personal hearing for the incident and finally Respondent issued proceedings dated 29.9.99 confirming the order dated 18.6.98. Said action is wholly illegal, arbitrary and unjust. The Enquiry Officer failed to consider the facts that the documents filed by the Respondent are without any signatures and the officers who initialled the dispatch register have done so, having satisfied with the procedures and postages. The Enquiry Officer has violated the principles of natural justice by not summoning the documents sought to be summoned as defence evidence and which are in possession of the bank like, circular issue register referred to by MW1 and circulars. There was no opportunity is given for cross examining the officers who checked and ratified all the dispatch entries. This is irrational and in violation of principles of natural justice. Petitioner is the only earning member of his entire family, due to illegal termination of his services its became very difficult to eak out their livelihood. Hence, the petition.

3. Respondents filed their counter with the averments in brief as follows:

The grounds and facts stated in the petition do not disclose any valid and substantiate grounds to invoke the jurisdiction of the court. Since, no dispute has been raised before ALC(C), this petition can not be taken up under Sec.2A(2) of the Industrial Disputes Act, 1947 and it is liable to be dismissed. Petitioner has been working as clerk in regional office of the bank at Hyderabad with effect from 10.10.1985. He was mostly entrusted with dispatch work from 1990 onwards. During May, 1993, Sri N. Venkateshwar Rao, the officer of the dispatch section, noticed some irregularities committed by the Petitioner in the dispatch department. It was suspected that Petitioner misappropriated some amounts and the matter was brought to the notice of Asst. General Manager. Steps were taken to investigate into the mater to ascertain actual facts. On 10.5.93 Petitioner was taken out of the dispatch department and was sent on deputation to service branch, Hyderabad for smooth conduct of investigation. After shifting the Petitioner so a new dispatch register was opened with effect from 12.5.1993. Sri M V R A Sastry inspector of branches submitted investigation report dated 26.6.93. Apart from this a separate investigation was also conducted by Cap. N.S.R.K. Rao, Security Officer, who submitted his report dated 24.6.1993 to the Asst. General Manager, Hyderabad. Basing on the said report the Regional Manager, recommended for suspension of the Petitioner by virtue of his letter dated 24.6.93 addressed to Zonal Manager. The investigation revealed that average expenditure in dispatch section during April, 1993 was

Rs.600/- per day, whereas it came down to less than Rs.75/- per day from 12.5.93. In consideration of the investigation report and recommendations of the Regional Manager Petitioner was suspended from service with effect from 3.8.93. A show cause notice dated 22.7.94 was issued to the Petitioner by the Respondent bank classifying the irregularities and fraud committed by him into five categories:

- “a. Making fictitious entries in the dispatch register (as per annexure A)
- b. Showing covers with abnormally excess postages (as per annexure B).
- c. Showing huge amounts for dispatch of circulars etc. to 32 branches (as per annexure C).
- d. Showing letters bearing the same numbers in dispatch register more than once (as per annexure D).
- e. Showing dispatch of letters to various departments in Central Office, Madras separately on each day instead of using a single cover.”

Petitioner was asked to give explanation as to why disciplinary action shall not be initiated against him. There on Petitioner gave a representation dated 11.8.94 seeking for the following documents:-

1. Copy of enquiry/investigation report
2. Photo copy of dispatch register from where the above annexures were drawn.
3. Copies of the vouchers whereby the alleged excess amounts were either vouched or doubly vouched.
4. Office order allocating the dispatch work and supervision.

The Zonal Manager permitted the Petitioner to verify the relevant material by fixing a date and time in advance with the chief manager vigilance department, Zonal Manager, Hyderabad within five days from the date of receipt of the letter. Petitioner wrote another letter to ZM seeking permission for taking the assistance of Sri Prakash Pande for the purpose of verification of the documents. It was not accepted by the Respondent bank. On 7.3.95 the Petitioner was permitted to verify the documents and he was also granted 7 days time to give his explanation. But, Petitioner failed to utilise the opportunity to verify the documents and was postponing the disciplinary proceedings on one pretext or the other. He addressed another letter dated 16.3.95 seeking permission for assistance to inspect the documents. Respondent rejected the said request in their letter dated 8.5.95 and giving opportunity to the Petitioner to inspect the documents. But he failed to avail the same again and addressed more letters seeking copy of preliminary investigation report. Finally on 13.7.95 he sought for verifying the documents.

With due permission he verified the documents on 15.7.95. Even there after he failed to give explanation to show cause notice. Respondent bank sent a reminder dated 31.7.95. Thereafter Petitioner addressed letter dated 5.9.95 informing the Respondent bank unless he permitted to verify the records by his defence assistant he shall not be in a position to accept or deny his allegations. Having understood the intention of the Petitioner to delay/drag proceedings Respondent finally issued chargesheet dated 18.10.95 appointing Sri K. Bharavi, Senior Manager as Enquiry Officer to conduct detailed departmental enquiry. Petitioner was asked to appear before Enquiry Officer on 27.5.96 at EDP Cell, Zonal office, Hyderabad. He failed to appear so. He did not send any communication for his/DR absence. Proceedings were adjourned to 10.6.96. But Petitioner has not attended the enquiry. On 18.6.96 preliminary enquiry was held by the Enquiry Officer. Petitioner accepted the receipt of chargesheet but pleaded not guilty. He appointed Sri B. Vijaya Gopal Rao as his Defence Assistant. The Enquiry Officer permitted the defence assistant to verify the original dispatch register at his request and he verified the said document days together. Meanwhile the Enquiry Officer was transferred as Regional Manager and a new Enquiry Officer Sri B. Narasing Rao was appointed in his place on 23.8.1996 and Petitioner was informed of the same. After defence assistant completed the verification of the documents the Management witnesses were examined and their documents were marked. The Petitioner got said witnesses cross examined. Thereafter the defence was asked to produce their evidence but in spite of giving sufficient time they failed to do so. Enquiry Officer received written briefs from either party and thereafter adjudicated the matter, scrutinized the documents and the evidence very keenly and gave his report. A copy of the report was sent to the Petitioner and Petitioner filed his submissions on it. A show cause notice was issued to Petitioner proposing to impose the punishment of "discharge from bank service without disqualification of future employment". On 6.6.1998 a personal hearing was also given to the Petitioner by the then Zonal Manager cum Disciplinary Authority and found that the submissions made by the Petitioner as not different from the pleadings made by the Defence Assistant before the Enquiry Officer. Basing on the relevant factors, Disciplinary Authority confirmed the punishment and communicated the Petitioner on 18.6.1998. Petitioner filed an appeal before the Appellate Authority to reconsider the punishment imposed. Considering all the facts, material, the Appellate Authority confirmed the punishment already imposed, by virtue of the order dated 29.9.98. Petitioner filed this petition with malafide intention and ulterior motives and without valid and substantial motives. The contention of the Petitioner that the Enquiry Officer failed to consider the fact that the

documents produced by the Management are not bearing signatures and that there is violation of principles of natural justice are not correct. His further contention that he was not given opportunity to produce defence is also not correct. He failed to avail the opportunity given to him to do so. Petition is liable to be dismissed.

4. While things stood so, Learned Counsel for the Petitioner represented before the court that Petitioner concedes that the domestic enquiry conducted in this case is valid. This representation was made on 18.10.2003. There on in this case the arguments advanced under Sec.11A of the Industrial Disputes Act, 1947 were heard.

5. The points that arise for determination are :

1. Whether the impugned order of removal of the Petitioner from service is liable to be set aside and on what grounds?
2. To what relief the Petitioner is entitled?

6. Point No.1:

As can be gathered from the petition filed by the Petitioner, his grievance has been against the conduction of enquiry by the Enquiry Officer. He is attacking the domestic enquiry conducted in this case on five grounds mentioned in clauses (a) to (e) of para 6 of his petition.

7. In the first ground, mentioned as "a" he claimed that the Enquiry Officer failed to see that the documents filed by the Respondent Management were not bearing any signatures, which is denied by the Respondent. He failed to state as to which are the documents, which are not bearing signatures, specifically. Whereas all the relevant documents of the Management are bearing the signatures of the concerned.

8. In the ground 'b' it is stated that the officers who initialled the dispatch register were not examined. But the material on record shows that some of the officers who worked in dispatch section were examined as witnesses and all the relevant documents produced before the enquiry were properly proved. If some other officers are not examined and the said event is prejudicing the interest of the Petitioner, he ought to have taken steps to get them examined as defence witnesses by getting them summoned. Evidently he has not taken any such steps.

9. Petitioner is claiming that there is violation of principles of natural justice in grounds "c", "d" and "e", stating that some relevant documents were not summoned by the Enquiry Officer. A perusal of the enquiry proceeding and enquiry report show that when the documents like circular issue register were sought to be summoned, the Enquiry Officer made efforts to secure them, but found that no such register was in existence. In the given circumstances it can not be said that there is violation of principles of natural justice during the domestic enquiry conducted in this case.

10. Further more, an important fact to be noted is, Petitioner who is attacking the enquiry proceedings in above manner, in his petition has actually conceded to the validity of domestic enquiry conducted in this case during the present case proceedings, which shows that there is no substance bonafides in the various grounds on which he sought to attack the validity of domestic enquiry.

11. Thus, the Petitioner is not disputing with the soundness of the findings arrived at by the Enquiry Officer. Even otherwise a perusal of the material on record clearly shows that basing on the evidence which is substantiating the charges and on due application of mind to the same, sound and well reasoned findings were arrived at by the Enquiry Officer. Further more, sufficient opportunity has been given to the Petitioner to make his submissions regarding the domestic enquiry and the findings of the Enquiry Officer, before the Disciplinary Authority and he availed of the same. A personal hearing was also afforded to him. Thereafter, considering all the circumstances of the case, the Disciplinary Authority proceeded with awarding the punishment to the Petitioner by virtue of impugned proceeding, dated 18.6.98. The Petitioner preferred an appeal against said order to the Appellate Authority. On due consideration of the material on record he confirmed the order dated 18.6.98 in his order dated 29.9.98. Considering the nature of the charges levelled against the Petitioner, which were proved and which involved moral turpitude, as it is misappropriation of amount and cheating, one can not say that the punishment awarded to the Petitioner is disproportionate to the charges in any manner. As the Respondent bank lost faith in the Petitioner due to his grave misconduct they removed him from service. But, considering his case with some compassion, his opportunity for future employment has not been denied to him. Thus, it is a very appropriate punishment and it also does not require any interference.

12. In view of the fore gone discussion, the impugned removal order removing the Petitioner from service is not liable to interfere with.

This point is answered accordingly.

13. Point No.II:

In view of the finding given in Point No.I Petitioner is not entitled for any sort of relief.

This point is answered accordingly.

Result :

In the result petition is dismissed.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined
for the Petitioner

NIL

Witnesses examined
for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 96/09) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-12011/68/2009-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2696.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 96/09) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen, received by the Central Government on 26/09/2014.

[No. L-12011/68/2009-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/96/09

PRESIDING OFFICER : SHRIR.B.PATLE

General Secretary,

Dainik Vetan Bhogi Bank karmchari Sangathan,

F-1, Tripti Vihar, Opp. Engineering College,

Ujjain.

.....Workman/Union

Versus

Branch Manager,

Central Bank of India,

Khandwa Branch,

Khandwa (MP)

.....Management

AWARD

Passed on this 19th day of August 2014

1. As per letter dated 4-11-09 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/68/2009-IR(B-II). The dispute under reference relates to:

“Whether Shri Deepak Khatwase is entitled for payment of difference of wages as per the Bipartite Settlements for the periods he worked with the Bank?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim. Case of workman is that he was engaged by IInd party as peon from 3-7-93. He was working 8 hours per day. He completed more than 240 days continuous service. That he was paid wages as per pay scale in bogus names like Dilip, Dinesh, Baliram, Kamalkumar, Ladlesh, Raju, Vinay Kumar, Mahesh Kumar, Ashok Kumar, Narayan, Ramesh, Vikas, Devendra, Deewakar, Dipanshu, Deenath, Devkumar, Vikas etc. workman claimed regularization and payment of bonus. Management of IInd party got annoyed and terminated his services in violation of Section 25-F of I.D. Act. He was not paid retrenchment compensation. Workman challenged termination of his service vide reference no. 133/02. The reference is pending. Workman submits that the settlement No. 4, 5, 6, 7, 8 were implemented raising the pay scale of subordinate staff from Rs. 430 to 790, 815 to 1510, 1600 to 3020, 2750 to 5850 & 4060 to 7560 from the dates shown in Para-4 of statement of claim. Workman submits that the employees were classified as per chapter 16, Para 5 to 8. Workman is temporary peon. He is entitled to pay scales as per settlements. The workman is praying for payment of difference of wages with interest.

3. IInd party is proceeded exparte vide order dated 29-8-13. IInd party has failed to case appearance or file Written Statement in the matter.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| (i) Whether Shri Deepak Khatwase is entitled for payment of difference of wages as per the Bipartite Settlements for the periods he worked with the Bank? | In Negative |
| (ii) If so, to what relief the workman is entitled to? | Relief claimed by workman is rejected. |

REASONS

5. Workman is claiming difference of pay as per Bipartite Settlement dated 14-9-84, 10-4-89, 14-2-95, 23-3-00 & 2-6-05. Workman filed affidavit of his evidence supporting his claim. Workman has stated that he had continuously worked more than 240 days. He was discontinued from service on 31-8-01. He was engaged as peon from 3-7-93. That he is entitled to pay scales as per settlement No. 6, 7. Workman has stated that he was paid pay scale in bonus names. Claim that he was paid wages in names of different

bogus persons itself is fraudulent. Document P-35 produced by workman that he was appointed as casual labour as per application dated 1-12-1997. Said order is issued in name of Shri Prakash Kohli and not in name of workman himself. Document No. P-37 is with respect to payment of Rs. 30,978.96 to one Pradeep Devda by Bank of Maharashtra. No document is produced by workman about payments made by Central Bank of India. When workman has produced document about his appointment as peon, his claim for difference of wages as per settlement 6, 7 cannot be accepted. For above reasons, I record my finding in Point No.1 in Negative.

6. In the result, award is passed as under:-

- (1) Workman is not entitled for difference of wages as per Bipartite Settlements.
- (2) Claim of workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 16/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-12012/386/96-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2697.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/98) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 26/09/2014.

[No. L-12012/386/96-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/16/98

PRESIDING OFFICER : SHRI R. B. PATLE

The President,
Association of PNB employees,
C/o Punjab National Bank,
Bairagarh,
Bhopal

.....Workman/Union

Versus

Regional Manager,
Punjab National Bank,
4, Sikharvaartha Building,
Bhopal

.....Management

AWARD

Passed on this 12th day of August, 2014

1. As per letter dated 13-1-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/386/96-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Punjab National Bank, Bhopal in withdrawing the special allowance meant for Special Assistant from Shri Satish Waygaonkar and redesignate him as clerk/cashier w.e.f. 9-8-91 is legal and justified? If not, to what relief the said workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 5/1 to 5/5. Case of workman is that he was re-designated as Special Assistant on basis of seniority and oral interview. He was posted at Gwalior Branch of New Bank of India. Workman resumed duty on 9-10-89. His performance was good. Special allowance payable to workman was withdrawn from 8-8-91 without assigning any reasons. Workman further reiterates that he was offered re-designation as Special Assistant vide order dated 30-9-89. Said order is defective and re-designation was restricted for limited period. That he requested management to continue special allowance. The request was not considered. The withdrawal of special allowance denotes confirmation. Workman referred to various annexures contending abolition of Hindia's post at Neemuch branch of ENBI and creation of Special Assistant's new post at the branch where required i.e. Gwalior branch of ENBI. That the documents demonstrate powers by management. The vacancy of Special Assistant at Gwalior was new. One sr. most clerk was posted. Such posting should have been treated on probation for six months and then confirmed. Workman prays for restoration of special allowance from 9-8-91.

3. Management of IInd party filed Written Statement at Page 6/1 to 6/5. Preliminary objection is raised by IInd party on ground of delay in rising dispute. The Writ Petition filed by workman in High Court was withdrawn on 8-8-91 and the dispute is raised on 30-6-96. That workman was granted special allowance for post of Assistant on temporary basis. Workman is not entitled to special allowance permanently. On vacancy of Shri R.K. Hindia, workman was re-designated as Special Assistant. It was conditional if Shri R.K. Hindia was restored special

allowance or he was not promoted to the officer grade, workman will not get special allowance. All above points are reiterated by IInd party and prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| (i) Whether the action of the management of Punjab National Bank, Bhopal in withdrawing the special allowance meant for Special Assistant from Shri Satish Waygaonkar and redesignate him as clerk/cashier w.e.f. 9-8-91 is legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to? | Workman is not entitled to any relief. |

REASONS

5. Workman is challenging withdrawal of special allowance to him from 9-10-89. Management has opposed relief claimed by workman. The documents produced by workman are admitted and marked Exhibit W-1 to W-4. Document Exhibit W-1 is letter issued by Regional Manager to workman in the matter of his temporary re-designation as Special Assistant. That the re-designation of workman as Special Assistant was against vacancy of Shri R.K. Hindia on purely temporary basis. Till such times, Hindia is not restored to special allowance applicable to Special Assistant or his promotion to officer cadre in any subsequent selection. Exhibit W-2 & 3 is letter discontinuing special allowance to the workman. Exhibit W-4 is representation submitted by workman. Exhibit W-5 is order of punishment imposed on Shri R.K. Hindia. Punishment of his dismissal was reduced to reduction of special allowance for a period of 3 years. The documents Exhibit M-1 to M-7 produced by management also speaks that workman was granted special allowance in place of Shri R.K. Hindia temporarily. The appointment of workman was on temporary basis. Exhibit M-4 is copy of representation submitted by workman. Exhibit M-5 is letter given by management rejecting representation of workman. The document Exhibit M-6 shows workman was granted special allowance temporarily.

6. Workman filed affidavit of his evidence narrating the course of litigation. In his cross-examination, workman says he was appointed in Bank of India which was merged in Punjab National Bank. He was re-designated by Bank of India. He was granted re-designation from 9-10-89 or date may be 30-9-89. Workman was granted special allowance temporarily. It was withdrawn. Management's

witness Shri Deepak Sood has filed affidavit supporting contentions raised in Written Statement. The cross-examination of management's witness shows that Bipartite Settlements are governing the service of workman. The permanent post are filled directly after holding interview. Workman has accepted his re-designation and resumed working. The evidence on record is clear that workman was not granted special allowance permanently. He was not promoted to the post of Special Assistant. Therefore the withdrawal of special allowance to the workman cannot be said illegal. For above reasons, I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

- (1) The action of the management of Punjab National Bank, Bhopal in withdrawing the special allowance meant for Special Assistant from Shri Satish Waygaonkar and redesignate him as clerk/cashier w.e.f. 9-8-91 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 279/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-12012/355/96-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2698.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 279/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen, received by the Central Government on 26/09/2014.

[No. L-12012/355/96-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/279/97

PRESIDING OFFICER : SHRIR. B. PATLE

Secretary,

Indian National Bank Employees Federation,

9, Sanwer Road,

Hardev Niwas,

Ujjain (MP)

....Workman/Union

Versus

Asstt. General Manager,
UCO Bank,
E-45, Arera Colony,
Bhopal

.....Management

AWARD

Passed on this 2nd day of September, 2014

1. As per letter dated 30-9-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/355/96-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of UCO Bank in denying revision of subsistence allowance on the basis of the 6th Bipartite Settlement during the period of suspension of Shri Hare Singh Muvel is legal and justified? If not, to what relief the said workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 9 to 11. Case of Ist party workman is that he was suspended on 21-9-92 by IInd party pending enquiry. 6th Bipartite Settlement was settled on 14-2-95. 5th Bipartite settlement was settled on 10-4-89. In 6th Settlement, pay scales were revised for clerk from Rs.1750 to Rs. 5500/-, for subordinate staff from Rs. 1600 to 3020. 6th settlement was made applicable from 1-11-92. Ist party was not paid subsistence allowance as per revised pay in 6th Bipartite Settlement. ALC, Bhopal had directed to pay arrears of subsistence allowance as per 6th Bipartite Settlement. As per directions in conciliation proceedings, Ist party was paid arrears of other allowance on 15-6-97 revised subsistence allowance as per 6th Bipartite Settlement was not paid to him. This dispute has been raised. Workman claims for payment of arrears of subsistence allowance as per 6th Bipartite Settlement.

3. IInd party filed Written Statement at Page 40/1 to 40/3 opposing claim of workman. Preliminary objection is raised that no valid or viable award could ensue from the matter under reference, the reference is vague. For an effective, just, proper and meaningful adjudication of revision of subsistence allowance, the factual foundation period attracting its applicability constitutes a must requirement and condition precedent. It is further submitted that workman moved application raising dispute by Shri Ram Nagwanshi, Rashtriya Bank Karmchari Sangthan. No documents are produced that workmen is member of said Union. Resolution passed to prosecute claim of the workman. It is further submitted that Shri H.S. Moveel had been suspended prior to the date of salary revision as per 6th bipartite settlement. As

per decision of Committee of Indian Bank's Association, it was resolved that in case workmen employees and the officer employees, if the date of suspension is prior to the date of salary revision, there will be no change in the subsistence allowance arising out of the salary revision. However the date of suspension is subsequent to the date of salary revision is effective, the concerned employee will be given the salary revision on the due date and his subsistence allowance will be fixed as per his revised salary.

4. IInd party denied claim of Ist party workman that the suspension order was issued incorporating the rules. That workman has not disclosed actual period and duration of his suspension. Bipartite settlement is admitted with terms and conditions. The conciliation proceeding and reference of dispute is not disputed. However it is submitted that workman was already paid allowance as per Bipartite Settlement and nothing remained due. Claim of workman is false and incorrect. If any dues would have been left, computation, calculation would have been furnished with the application. The annexure which relates to the reply of the Bank workman is not disputed. Precisely the IInd party opposed claim for arrears of subsistence allowance as per 6th Bipartite Settlement. IInd party prays for rejection of claim.

5. Workman filed rejoinder at page 53/1 to 53/3 reiterating its contentions in statement of claim. He further submits that workman belongs to SC was appointed on 9-9-84. The suspension chargesheet was issued to workman contrary to the Bipartite Settlement. That suspension order was issued on 21-9-92 confirming that subsistence allowance as per rules are paid to the workman. Workman reiterates that he is entitled to arrear of subsistence allowance as per 6th bipartite settlement for the period 21-9-92 to 10-8-94.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the manage- In Affirmative ment of UCO Bank in denying revision of subsistence allowance on the basis of the 6th Bipartite Settlement during the period of suspension of Shri Hare Singh Muvel is legal and justified?
- (ii) If so, to what relief the workman is entitled to? Workman is not entitled to any relief as claimed.

REASONS

7. Workman filed affidavit of his evidence that he was appointed in Bank in 9-11-84, he was suspended on

21-9-92 without calling explanation or issuing chargesheet. That as per 5th Bipartite Settlement, subsistence allowance was paid. 6th Bipartite Settlement was settled on 14-2-95. He is entitled to revised subsistence allowance as per pay revised in 6th bipartite settlement. In his cross-examination, workman says he has passed Hsc. He claims arrears of suspension allowance as per 6th bipartite settlement came in force on 1-11-1992. However he has made improvement in his cross-examination about his claim till 8-9-97. In his rejoinder, he had claimed arrears till 10-8-94. That he submitted copy of 6th Bipartite Settlement. As per 6th Bipartite Settlement, he was not paid subsistence allowance. He claims difference of subsistence allowance. The 6th Bipartite Settlement produced by him is not complete document. He admits to be an employee of the UCO Bank. The policy and rules of said Bank are applicable to him. He claims ignorance whether he submits documents with Written Statement of the Bank. Bank has not replied to his claim for subsistence allowance as per 6th Bipartite settlement. That he has produced document about payment of subsistence allowance as per 6th Bipartite settlement by other banks.

8. Management's witness Shri Prabhat Pathak in his affidavit of evidence says for proper adjudication of revision of subsistence allowance, the factual foundation period attracting its applicability is an essential requirement/ condition precedent. That workman has not specifically mentioned actual period and duration of subsistence allowance claimed by him. That as per decision of Personnel Committee Meeting of Bank's Association held on 12-9-89 circulated on 28-11-89 the employees and officers are not entitled to revised suspension allowance when the date of suspension is earlier to salary revision. If the date of suspension is subsequent to the date from which salary revision is effective, the concerned employee will be given the salary revision on the due date and his subsistence allowance will be fixed as per his revised salary.

9. Management's witness in his cross-examination says his affidavit is based on documents. He had discussion with the Branch Manager but did not recollect the date. 3-4 days before preparing his affidavit, he had seen the record. He was not working in the branch during 24-9-92 to 8-9-97. He claims ignorance whether explanation of workman was called before order of his suspension. If any employee is suspended on the basis of settlement, he would not be entitled to benefit of settlement. That circular of 1989 was policy matter and it is applicable to all. That 6th Bipartite Settlement does not apply to the workman. In his further cross-examination, management's witness says workman was paid medical allowance, hauling allowance as per 6th Bipartite Settlement. That those allowances are not based on basic pay. Management's witness Shri Deepak Kumar in his affidavit of evidence says that

workman was placed under suspension on 21-9-92. Chargesheet was served on him on 24-3-93. As per order dated 10-8-94, workman was dismissed from service. The dispute is referred on 30-10-95. In reply to the representation of workman through Union Representative dated 25-5-95, Head Office vide letter dated 4-11-95 intimated workman about decision to conduct departmental enquiry. Union submitted letter dated 18-11-95 for payment of subsistence allowance during Departmental Enquiry. Workman was paid arrear of subsistence allowance as per letter dated 9-7-96. The calculation sheet is enclosed with the said letter. The circular dated 18-11-89 is reproduced by the witness. The copy of said circular is also produced on record. Workman has produced document Exhibit W-1. Management's letter about payment of arrears of subsistence allowance Rs. 56454.19 as per revised pay scaled from 21-11-93. Exhibit W-2 are copies of cheques, W-3 is order of suspension dated 21-11-92. Exhibit W-4 is copy of order passed by management. That subsistence allowance during enquiry was paid to him. He would not be entitled to any other claim.

10. Management produced documents Exhibit M-1 letter by Assistant General Manager (Personnel) to Union Secretary Shri Ram Nagwanshi informing that chargesheet was issued to workman on 24-5-95. Enquiry would be conducted in Hindi. Exhibit M-2 is copy of letter by Shri Ram Nagwanshi Secretary dated 18-11-95, Exhibit M-3 is copy of letter dated 2-3-96 by Regional Manager, M-4 is copy of letter dated 9-8-96 informing workman about payments of Rs. 30,663/- on different counts. M-5 & 5(a) are copy of calculation sheet. M-6 is copy of letter dated 9-7-96. Workman was paid arrears of subsistence allowance. Exhibit M-6(a) is calculation sheet.

11. The parties are in dispute whether the workman is entitled to revised subsistence allowance as per 6th bipartite settlement. Claim is opposed by management only on ground that as per circular dated 20-11-89, workman is not entitled to revised subsistence allowance as per 6th bipartite settlement. To make the point clear, relevant verbatim of said circular is produced-

"Both in case of workmen employees and the officer employees, if the date of suspension is prior to the date of salary revision, there will be no change in the subsistence allowance arising out of the salary revision and accordingly no arrears will be payable unless the period of suspension is treated as on duty. If however, the date of suspension is subsequent to the date from which the salary revision is effective, the concerned employee will be given the salary revision on the due date and his subsistence allowance will be fixed as per his revised salary. The arrears of salary and subsistence allowance shall be paid to him accordingly."

Workman in his cross-examination says that rules and policy of Bank is binding on him. The copy of award in R/6/97 is produced on record. The dispute related to termination of workman from service from 10-8-94. The claim of workman was not upheld on ground that fresh enquiry was already initiated. As Bank's circular dated 28-11-89 is clear that if suspension order is prior to the date of revision of salary, the employees is not entitled to revised subsistence allowance. Therefore I do not find any illegality committed by the Bank. For above reasons. I record my finding in Point No.1 in Negative.

12. In the result, award is passed as under:-

- (1) The action of the management of UCO Bank in denying revision of subsistence allowance on the basis of the 6th bipartite settlement during the period of suspension of Shri Hare Singh Muvel is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इंशोरेंस कम्पनी लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (संदर्भ संख्या 18/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-17011/1/99-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2699.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 18/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of National Insurance Co. Ltd. and their workmen, received by the Central Government on 26/09/2014.

[No. L-17011/1/99-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA**

Reference No. 18 of 2000

Parties: Employers in relation to the management of
National Insurance Company Ltd.

AND

Their workman.

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance:

On behalf of the : Mr. Dipak Kumar Ghosh,
Management : Ld. Counsel with
Mr. Ranjay De, Ld. Counsel.

On behalf of the : None
Workman

State: West Bengal Industry: Insurance

Dated: 12th August, 2014.

AWARD

By Order No.L-17011/1/99-IR(B-II) dated 23/28.02.2000 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of National Insurance Co. Ltd., Calcutta in converting the services of Bradma Operators and comptist straightway to Assistant (Clerical) ignoring the seniority of Assistant (Typist) who are also supposed to be converted to clerical cadre is justified? If not, what relief the concerned workmen are entitled?”

2. When the case is taken up today for hearing, none appears on behalf of the union/workmen though the management it represented by its Ld. Counsel. It appears from the record that the union is absent since 23.01.2014. Considering the above facts and circumstances and the conduct of the union it may reasonably be presumed that the union does not want to proceed with the case further.

3. In view of the above, instant reference case is disposed of by passing a “No Dispute Award”.

Dated : Kolkata, the 12th August, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2700.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोलकता पतन न्यास के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (संदर्भ संख्या 36/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-32011/4/2003-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2700.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 36/2003) of

the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of Kolkata Port Trust and their workmen, received by the Central Government on 26/09/2014.

[No. L-32011/4/2003-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA****Reference No. 36 of 2003**

Parties : Employers in relation to the management of
Kolkata Port Trust

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance:

On behalf of the : Mr. M. K. Das,
Management : Industrial Relations Officer.

On behalf of the : None.
Workmen

State : West Bengal Industry: Port & Dock

Dated: 10th September, 2014.

AWARD

By Order No.L-32011/4/2003-IR(B-II) dated 31.10.2003 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Kolkata Port Trust in denying the promotion to Shri Chandi Charan Debnath from Lascar Grade-I to Deck Tindal from 1.1.2001 against a supernumerary post on par with other marine personnel, who were granted similar benefits is legal and justified? If not, what relief the concerned workman is entitled to?”

2. When the case is called out today, none appears on behalf of the union inspite of service of notice, though the management is represented by its authorized representative. It appears from the record that none is appearing on behalf of the union since 06.06.2011, nor any step has been taken by the union to proceed with the matter.

3. Considering the above facts and circumstances, it appears that the union is not at all interested to proceed with the case further. So, no fruitful purpose will be served in keeping the matter pending.

4. Accordingly, the instant reference case is disposed of by passing a “No Dispute Award”.

Justice DIPAK SAHARAY, Presiding Officer

Dated : Kolkata, the 10th September, 2014.

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली-2 के पंचाट (संदर्भ संख्या 57/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-12012/34/2007-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2701.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 57/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 26/09/2014.

[No. L-12012/34/2007-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, KARKARDOOMA COURT COMPLEX, DELHI

Present : Shri Harbansh Kumar Saxena

ID No. 57/2007

Sh. Sunder Lal, S/o Sh. Khazan Singh,
16/362, Trilok Puri, New Delhi-110091

Versus

Sr. Regional Manager, North Delhi Region PNB,
Rajendra Bhawan, Rajendra Place, New Delhi-110066

AWARD

The Central Government in the Ministry of Labour vide notification No L-12012/34/2007-IR(B-II) dated 18.09.2007 referred the following industrial Dispute to this tribunal for adjudication :—

“Whether the action of the Sr. Regional Manager, Punjab National Bank, Rajendra Place, New Delhi, in terminating the services of Sh. Sunder Lal Ex-part

time sweeper w.e.f 21.08.2002 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?”

On 27.09.2007 reference was received in this tribunal. Which was register as I.D No. 57/2007 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement. Wherein he stated as follows:-

1. That the Central Government, Ministry of Labour, vide their Order No. L- 12012/34/2007-IR(B-II) dated 18.09.2007 has been pleased to refer the above-mentioned industrial dispute to this Hon'ble Tribunal, for adjudication, with the terms as under:—
“Whether the action of the management of the Sr. Regional Manager, Punjab National Bank, Rajendra Place, New Delhi in terminating the services of Shri Sunder Lal, Ex-Part-time Sweeper, w.e.f. 21.08.2002 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?”
2. That the employer Bank served the workman with no notice before terminating his services w.e.f. 21/08/2002.
3. That there was no adverse remark against the said workman regarding his work and conduct, from any official of the employer management.
4. That no departmental or fact finding enquiry was ordered by the management before abruptly dispensing with the services of the workman.
5. That the workman was working with the employer Bank against permanent vacancy of a Sweeper for a long time (1730 days w.e.f. 26.11.1997 to 21.08.2002 and was likely to be absorbed in the permanent services or the Bank as full-time Sweeper as per on-going negotiations with the majority Union of Bank Employees.
6. That immediately after termination of services of the workman, the employer Bank posted another Sweeper to do the same job.
7. That the workman was working in the employer's Mayur Vihar Phase -II Branch of the Bank eve since its opening against a permanent sanctioned vacancy of a Sweeper and his attendance was marked in the Attendance Register of the Branch alongwith other permanent officials of the Bank.
8. That the workman requested the employer Branch to confirm him in the service of the Bank as a

permanent Sweeper on his successful completion of six month's probation period but the employer Bank preferred to terminate the services of the workman against all norms and principles of natural justice.

PRAYER

It is prayed that this august Tribunal may consider the case in its entirety and order for reinstatement of the workman in the service of the Bank w.e.f 21.08.2002, with back wages till the date of his reinstatement in the service of the Bank, and other consequential benefits as may be applicable to the workman while in service, for the said period of his illegal termination from the service of the employer Bank.

Any other relief, which the court may deem fit, may also, be awarded in favour of the workman.

Against claim statement management filed following written statement:-

Most respectfully, it is submitted as under :—

That the aforesaid Industrial Dispute has been referred for adjudication to this Hon'ble Tribunal by the Appropriate Government with the following terms of reference:-

“Whether the action of the management of the Sr. Regional Manager, Punjab National Bank, Rajendra Place, New Delhi in terminating the services of Shri Sunder Lal, Ex-Part-time Sweeper, w.e.f. 21.08.2002 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?”

Before submitting reply on merits, we would like to raise the following preliminary objections:-

A. PRELIMINARY OBJECTIONS

1. That there was no employer-employee relationship between the bank and Sh. Sunder Lal and accordingly what has been referred by the Appropriate Government to this Hon'ble Tribunal cannot be termed as an 'Industrial Dispute' as per the law laid down by the Hon'ble Supreme Court of India. Sh. Sunder Lal Cannot ask for reinstatement in service with the bank dehors the rules.
2. That the term 'retrenchment' has been defined in section 2(oo) of the Industrial Disputes Act and sub-clause(bb) of the said section inter-alia provides as under:-

“Termination of the service of the workman as a result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein.”

3. That Sh. Sunder Lal was engaged for the limited period in stop-gap arrangement only and by virtue of Section 2(oo) (bb) reproduced here-in-above the non continuance of Sh. Sunder Lal in the Stop-gap arrangement does not constitute retrenchment and accordingly, there is no violation of Section 25F of the Industrial Disputes Act as alleged or otherwise.

B. REPLY ON MERITS

That at the outset, it is submitted that all the allegations, submissions and averments made by Sh. Sunder Lal in his statement of claim dated 15.11.2007 be deemed to have been specifically denied unless they are specifically admitted in this reply.

It is submitted that Sh. Sunder Lal had been engaged in stop-gap arrangement of a part-time sweeper at BO: Mayur Vihar, Phase-II Delhi, for a specific period i.e. till the appointment of a regular sweeper in the branch. Since the engagement of Sh. Sunder Lal was purely against stop-gap arrangement, discontinuation of the same cannot be termed as termination by virtue of provisions of Section 2(oo) of the Industrial Disputes Act.

That the Bank had entered into a conciliation settlement dated 7.05.1984 with ALL INDIA PNB Employees Federation over the matter of fixation of wages of part-time sweepers and related matters. In terms of the provisions of the said settlement, the vacancies of part-time sweepers of various offices are identified keeping in view the sweeping area of the concerned office as well as hours of work per week to be put in by the part-time sweeper. It is also agreed that the vacancies of part-time sweepers eligible for $\frac{1}{2}$, $\frac{3}{4}$, or full wages arising at the station where the bank has more than one office on account of any reason shall be filled up on the basis of seniority determined by converting the service put in at $\frac{1}{3}$, $\frac{1}{4}$, $\frac{3}{4}$ of the scale wages into full time service. This procedure of filling up the vacancies is to be followed unless 'thikana' system is in vogue at that particular area.

That the bank rules further provide that till such time a permanent sweeper is provided, the branch can make stop-gap arrangements. The persons engaged in such stop-gap arrangement are entitled to compensation equivalent to same proportion of scale wages but at the initial stage of scale of pay application to subordinate staff.

Sh. Sunder Lal was engaged at BOL Mayur Vihar, Phase-II, Delhi in stop-gap arrangement for a specific period i.e. till the appointment of a sweeper in the branch. Since his engagement was for a specific period and on completion of the same, his engagement came to an automatic end.

C. PARA WISE REPLY

1. That the contents of para 1 of the statement of claim are admitted to the extent that the Appropriate Government referred the case before Hon'ble court

for adjudication. However, it is submitted that what has been referred by the Appropriate Government to this tribunal cannot be termed as an Industrial Dispute in view of the Preliminary objections made here-in-before.

2. That the content of para 2 are wrong and hence denied. It is denied that Sh. Sunder Lal was ever employed by the bank as a part-time sweeper in BO: Mayur Vihar , Phase –II , Delhi. It is reiterated that he was engaged only to clean the branch premises in stop-gap arrangement of a permanent sweeper for which necessary payment was made to him from time to time. There was no occasion for his termination or giving any notice as stated or otherwise.
3. That the contents of para 3 are wrong and hence denied. The submissions made here –in –before are reiterated.
4. That the contents of para 4 are wrong and hence denied. Since there was no employer-employee relationship between the bank and Sh. Sunder Lal, there was no occasion for a departmental enquiry.
5. That the contents of para 5 are wrong and hence denied. It is vehemently denied that any negotiations were going on between the bank and the majority union regarding absorption of part-time sweepers in the permanent service of the bank. Sh. Sunder Lal has worked as a part-time sweeper in stop-gap arrangement w.e.f 26.11.1997 to 21.08.2002 (excluding holidays and Sundays) on 1/3rd scale of wages and his engagement was discontinued on the posting of permanent sweeper in the branch.
6. That the contents of para 6 are wrong and hence denied. In this connection it is submitted that the engagement of Sh. Sunder Lal was discontinued on the posting of a permanent sweeper in the branch.
7. That the contents of para 7 are wrong and hence denied. It is submitted that Sh. Sunder Lal was working in B.O. Mayur Vihar, Phase-II, Delhi as part time sweeper in a stop- gap arrangement for a specified period i.e. till the posting of a permanent sweeper in the branch.
8. That the contents of para 8 are wrong and hence denied. It is reiterated that Sh. Sunder Lal was never appointed in the bank. There was no employer-employee relation between the bank and Sh. Sunder Lal and accordingly there was no occasion for the bank to terminate his service as alleged . It is further denied that any provision of law or the principle of natural justice has been violated in discontinuing the engagement of Sh. Sunder Lal in stop-gap arrangement.

PRAYER:—

That in view of the submission made here-in-above, its respectfully submitted that this Hon'ble Tribunal may kindly be pleased to hold the action of the bank in discontinuation of stop-gap arrangement of Sh. Sunder Lal as just and proper and that Sh. Sunder Lal is not entitled to any relief as prayed for or otherwise.

Workman filed rejoinder. Wherein he stated as follows:-

Most respectfully on behalf of the workman:-

1. That the workman reiterates the contents of his statement of claim.

It is reiterated that the workman , Sh. Sunder Lal, was employed by the management of Punjab National Bank as a part-time Sweeper on 1/3rd of Scale Wages of a permanent Sweeper, against permanent vacancy, arising with the opening of its new branch at Mayur Vihar , Phase –II , Delhi, w.e.f 26.11.1997 and his services were abruptly terminated w.e.f 21.08.2002, without service of any notice, or holding any enquiry, while the workman asked for absorption of his services as permanent Part-time Sweeper of the management Bank.
2. That there existed no contract between the workman and the employer Bank to work in a 'Stop gap' arrangement for a 'specific period', as has been alleged by the management in the Written statement.
3. That even on date, a large number of vacancies of permanent Sweepers are lying vacant with the employer management and it is out-sourcing the sweeping work to outside agencies at the cost of absorption of those part-time sweepers who have put in a number of years in the employment of the management Bank as part-time sweepers and therefore have a right over the vacancies lying vacant with the management of the Bank in the interest of 'natural justice'. Such an act is also violative of Article 14 of the Constitution of India. The management should not be permitted to formulate and practice a law unknown to the Indian legislature and which is also against the principles of 'natural justice'.
4. That the employer Bank is violating the terms of conciliation settlement dated 07.05.1984, according to which, it is agreed that the vacancies of part-time sweepers eligible for 1/3, 3/4 or full wages arising at the station where the bank has more than one office on account of any reason shall be filled up on the basis of seniority determined by converting the service put in at 1/3, 1/4, 3/4 of the scale wages into full time service. This procedure of filling up the

vacancies has not been followed in the case of workman Sunder Lal and he has been thrown on the road by the management Bank against the provisions of this conciliation settlement dated 07.05.1984. The management may please be directed to place on record of this Hon'ble Tribunal a true copy of the said conciliation settlement dated 07.05.1984. The management may please be directed to place on record of this Hon'ble Tribunal a true copy of the said conciliation settlement dated 07.05.1984, along with the number of vacancies available in Delhi Circle of the management Bank, as also the seniority list prepared by the management, of such part-time sweepers who fit in this equation, for filling up the vacancies on the basis of seniority of such part-time sweepers including the workman claimant.

5. It is emphatically denied that any of provisions of the above –referred conciliation settlement dated 07.05.1984 provide that the management Bank make any 'Stop gap' appointment of any Sweeper for any 'specific period' or any length of time, or on contract, till such time a permanent sweeper is provided.
6. The workman , therefore, has prayed for his reinstatement in service of the management Bank with full back wages and all consequential benefits from the date of his illegal termination.

On 23.04.2012 My Ld. Predecessor mentioned in order sheet that no issue other than one mentioned in the reference requires to be framed in this case.

In view of this for evidence of workman on affidavit to come upon 14.08.2014.

Workman in support of its case filed his affidavit Ex.WW1/A . He tendered his affidavit and he also placed reliance on documents which has been marked as WW1/1 to 8 is examination in chief and cross-examination recorded on 03.05.2013 is as follows:-

I tender my affidavit as evidence, which is Ex. WW1/ A . Alongwith my affidavit, I rely on letter dated 16.07.2010, 28.07.2010, my bio-data, letter dated 18.12.1997, letters dated 07.01.1997 , 16.02.1991, 03.03.2004 and voucher dated 20.08.1999, which documents are Ex. WW1/1 to Ex. WW1/ 8. These documents maybe read alongwith my affidavit.

XXXXXX Ms. Natasha, Officer (HR) for the management.

It is incorrect that I was a temporary part time sweeper with the bank. It is correct that bank never gave in writing to me informing me that I was working as a permanent part-time sweeper. I have no documents in my possession to show that I was a permanent part-time sweeper with the bank.

My Ld. Predecessor on 3.05.2013 fixed 3.07.2013 for remaining evidence of workman as well as evidence of the management since then neither workman nor his Ld. A/R turned up before this tribunal on 3.07.2013, 05.08.2013, 17.09.2013, 15.11.2013, 07.01.2014 and 12.03.2014 for remaining evidence of workman but no remaining evidence has been produced by workman. Evidence alongwith documents and its copies was filed by management but afterwards management also adopted dormancy and could not tendered its affidavit and its annexed documents filed by management.

Due to continuous dormancy of parties I fixed 5.09.2014 for award on 03.09.2014.

In the light of pleadings and evidence on record no case of workman is made out for granting him relief in want of required evidence. Question of determination mentioned in schedule No.1 of reference is liable to be decided against workman and in favour of Management. Which is accordingly decided. Claim statement is hereby dismissed.

Award is accordingly passed.

Dated:-05.09.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2014

का.आ. 2702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 73/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2014 को प्राप्त हुआ था।

[सं. एल-12011/111/2011-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th September, 2014

S.O. 2702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 26/09/2014.

[No. L-12011/111/2011-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Monday, the 8th September, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 73/2012

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN

The General Secretary : 1st Party/Petitioner
Indian Bank Employees Union Union
No. 6, Moore Street,
Mannady Corner,
Chennai-600001

AND

The General Manager : 2nd Party/
Indian Bank Respondent
Corporate Office
264, Avvai Shanmugam Salai
Chennai-600014

Appearance :

For the 1st Party/ : Sri J. Thomas Jeyaprabhakaran,
Petitioner Union Authorized Representative

For the 2nd Party/ : M/s T.S. Gopalan & Co.,
Respondent Advocates

AWARD

The Central Government, Ministry of Labour and Employment vide its Order No. L-12011/111/2011-IR (B.II) dated 12.09.2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Indian Bank in proposing to recover an amount to the tune of Rs. 59,052 and paise 16 paid excessively to Sri U. Lakshmipathy, Part-Time Sweeper during July 2008 to December, 2010 is legal and justified? Whether the demand of the Union that Lakshmipathy should be fitted at the 11th stage on his elevation of half-scale w.e.f. 02.07.2008 and the next increment be preponed by 8 months to 02.11.2010 are just and proper? What relief the workman concerned is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 73/2012 and issued notices to both sides. The petitioner had entered appearance through Authorized Representative and the Respondent through the counsel and filed Claim and Counter Statement respectively. The petitioner has filed a rejoinder to the Counter Statement.

3. The averments in the Claim Statement are these:

The dispute pertains to reduced fitment of salary to U. Lakshmipathy, Part-Time Sweeper of Aminjekarai Branch

of the Respondent Bank. Lakshmipathy was initially working as Part-Time Sweeper in YWCA Extension Counter attached to Purusawalkam Branch and 1/3rd scale of wages was applicable to him at the time. When the extension counter was upgraded and shifted to a spacious premises in Aminjekarai, Lakshmipathy became eligible for 1/2 scale wages from 02.07.2008. As on the date of his elevation he has put in service of 15 years and 3 months. He had been sanctioned 16 annual increments of 1/3rd rate of the full increment, including the increment sanctioned on computerization in the banking industry, by the time he became eligible for half scale wages. At the time of his elevation, he was drawing 1/3rd scale wages at the 17th stage in the scale of pay eligible for Sub-Staff. On the basis of the communication from the Circle Office that the wages of Lakshmipathy has been enhanced to half scale wages, the Aminjekarai branch has calculated his salary as Rs. 3,258/- i.e. half of the full scale wages. He was paid at the above rate till December, 2010. Subsequently, on the basis of communication from Head Office, the pay of Lakshmipathy was re-fixed at the sixth stage of pay of Sub-Staff in half scale w.e.f. 02.07.2008. His date of increment was fixed as 02.03.2009. The Head office also instructed the branch to recover the excess salary said to have been paid to Lakshmipathy. The re-fixation was done on the basis that the 16 increments in 1/3rd scale on conversion into full increments would come to 5 and 1/3. It is accordingly, the pay was fixed in the sixth stage. The fixation of pay is not in accordance with the provision made in the Bipartite Settlement for the same. As per the Bipartite Settlement dated 10.04.1989, on elevation from part time to full time wages, the pro-rata increment earned in the part-time service should be notionally converted into full increments. In the case of conversion from 1/3rd scale to 1/2 or 3/4 scale, or from half to 3/4scale, the pro-rata increments earned in the lower proportionate wage scale should be notionally converted to higher proportionate wage scale into which the employee is elevated. If pay is fixed on this basis, the pay of Lakshmipathy should have been fixed in the 11th stage on his elevation to half scale. The remaining fraction of 1/3 increment being equivalent to 8 months in half wage scale, his next increment should have been advanced by 10 months to 02.09.2008 instead of 02.07.2009. Gross injustice has been meted out to Lakshmipathy by reducing his salary by incorrect fixation. An order may be passed directing the Respondent to fix the wages of Lakshmipathy at 11th stage on his elevation to half scale w.e.f. 02.07.2008, to prepone his date of increment by 10 months and declare 02.09.2008 as the increment date and also direct the Respondent to desist from recovering any amount from Lakshmipathy as excess amount.

4. The Respondent has filed Counter Statement contending as follows:

At the time Lakshmipathy was elevated to half scale wage as part-time sweeper, he had put in 15 years of service with 15 increments and also a special increment. So on elevation he was fixed at $16 \times \frac{1}{3} = 5$ and $\frac{1}{3}$ increment. His pay was re-fixed at the 6th stage of his pay and he was entitled Rs. 3,275/- of pay at half-scale. However, for some reason Lakshmipathy was being paid excess wages. His pay was re-fixed and excess amount for the period from 02.07.2008 to 01.05.2010 was sought to be recovered. The fixation of pay of Lakshmipathy is in terms of the settlement dated 27.04.2010. The claim of the petitioner is liable to be rejected.

5. The petitioner has filed a rejoinder disputing the mode of calculation by the Respondent and also reiterating the case in the petition.

6. The evidence in the case consists of Ext.W1 to Ext.W11 and Ext. M1 to Ext.M8. No oral evidence was adduced by either side.

7. The points for consideration are:

- (i) What is the correct fixation of pay of Lakshmipathy, the concerned workman on his elevation to half scale wage as Part-Time Sweeper w.e.f. 02.07.2008? What is the date of his increment due on elevation?
- (ii) What is the relief to which the concerned workman is entitled?

The Points

8. Lakshmipathy, the concerned worker, a Part-Time Sweeper of the Respondent Bank was getting 1/3rd scale wages applicable to Sub-Staff cadre employees. When the extension counter in which he was working was upgraded and the branch was shifted to a spacious building, Lakshmipathy became eligible for 1/2 scale wages w.e.f. 02.07.2008. By the time, Lakshmipathy was elevated to 1/2 scale wages he had already earned 16 annual increments including a special increment at 1/3rd rate of the full increment. Aminjikarai branch in which Lakshmipathy was working fixed the salary of Lakshmipathy in 1/2 scale at the 11th stage of Sub-Staff scale as he had already been sanctioned 16 annual increments at 1/3rd scale. However, the Head Office instructed the branch that this calculation of the scale is not correct. As calculated by the Head Office 16 increments in 1/3rd scale on conversion into full increments comes to 5 and $\frac{1}{3}$. Thus the pay should have been fixed at 6th stage only in the 1/2 scale, according to the Head Office. On the basis of this instruction, the pay of Lakshmipathy was re-fixed at the 6th stage in 1/2 scale wages thus reducing the salary which was drawn by him as per the calculation of the branch. The dispute is raised on account of this.

9. According to the Authorized Representative of the petitioner, who has raised the dispute on behalf of

Lakshmipathy, even though calculation of salary in 1/2 scale rate as calculated by the branch need not be resorted to, the salary of Lakshmipathy should have been fixed at the 11th stage. The petitioner as well as the Respondent are relying upon the relevant clauses in the 9th Bipartite Settlement to put forth their respective cases. The relevant clauses in the Bipartite Settlement are extracted below:

“For fitment of part-time employees consequent on their appointment on full time basis the pro-rata increments earned by them in the course of their part-time service shall be converted (notionally and only for the purpose of fitment) into full increments and their salary fitted from the date of their appointment as full time employees after taking into account such notionally added increments, the fraction of an increment if any being granted to them by advancing the date of their next increment suitably. The advanced date of increment will in such cases become the date of annual increment in future years.

When wages of part-time employees are re-fixed from 1/3rd to 1/2 or 3/4th or from 1/2 to 3/4 in the wage scales, the pro-rata increments earned by them in the course of their service in the lower proportionate wage scale shall be taken into account for the purpose of fitment in the higher proportionate wage scale together with the benefit of advancing the date of increment where the fraction of increment is involved as in the case of their absorption as full time employees.”

10. The bank has relied upon the first clause extracted above to calculate the wages of Lakshmipathy and fix it at the 6th stage in 1/2 scale. What the bank has done as stated in this clause is to convert the 16 and $\frac{1}{3}$ increments of Lakshmipathy into full increments which will be 6 and a fraction and fix the scale at the 6th stage.

11. According to the Authorized Representative, this calculation made by the Bank is not correct. According to him, when the second clause which refers to elevation of part-time employees from 1/3 to 1/2 or 3/4 or from 1/2 to 3/4 wage scales are taken into account the pro-rata increments earned in the lower proportionate wage scale should be notionally converted into higher proportionate wages scale, in which case the scale of Lakshmipathy should be fixed at the 11th stage.

12. The Authorized Representative has relied upon the decision of Madras High Court in PONNAMMAL VS. INDIAN BANK AND OTHERS in Writ Appeal No. 453/2007 (Unreported) decided on 19.02.2009 in this respect. In the above case, Ponnammal, the concerned employee who was earlier working in 1/2 scale wages was granted 3/4th scale subsequently. While fixing salary of Ponnammal at 3/4th scale the Respondent Bank has converted the increments that were sanctioned to her while working on

1/2 scale into full increments and fixed her salary accordingly. This was challenged before the High Court. The Hon'ble High Court, rejecting the method of calculation adopted by the employee as well as the Bank had adopted its own calculation. The Court has observed that the mode of pro-rata increment into full increment will not apply to the worker since she has not been appointed as a full-time employee. The Court converted the part-time half increments into part-time 3/4 increments notionally for the purpose of fitment and fixed the salary. It is pointed out by the Authorized Representative that the only difference between Ponnammal's case and that of the worker herein was that while Ponnammal was elevated to 3/4th scale from 1/2 scale the worker herein is elevated to 1/2 scale from 1/3rd scale. Thus according to him, the calculation should be based on the method of calculation done by the High Court.

13. The counsel for the Respondent has argued that method of calculation adopted by the High Court in Ponnammal's case could not be adopted for fixing the salary of Lakshmipathy. According to the counsel, a reading of the relevant clauses in the earlier Bipartite Settlements would show that the method in which the High Court has fixed the salary could not be resorted to. In the written arguments submitted, the counsel has referred to the clauses in the earlier Bipartite Settlement regarding elevation of Part-Time employees. According to the counsel for the Respondent, the clauses in the earlier Bipartite Settlements were not brought to the notice of the High Court and that is why the salary happened to be fixed in the manner done in the decision. As pointed out by the Authorized Representative, a new Bipartite Settlement overrides the earlier one. The earlier one will not be relevant for any purpose after that. Again, it has been pointed out by the Authorized Representative that the High Court while deciding Ponnammal's case was very much aware of the earlier settlements also. The salary fixation of Ponnammal was done by the Respondent on the basis of the 3rd Bipartite Settlement as the 9th settlement was yet to come into effect at that time. On account of the reference to the employees of the bank who joined the bank prior to 01.01.1980 which is referred to in the 3rd Bipartite Settlement also it is clear that the High Court was aware of provisions of the previous Bipartite Settlements at the time when Ponnammal's case was decided.

14. On a reading of the two relevant clauses of the 9th Bipartite Settlement, the only conclusion that could be arrived at is that the clause applicable to the case of Lakshmipathy is the second one. As noticed by the High Court, the first clause is relevant only to the extent that the same mode of calculation is to be adopted but at the same time the pro-rata increments at the lower scale should be notionally converted into the higher proportionate

scale. The decision of the High Court also shows that this is the method of calculation to be adopted. When these aspects are taken into account, it is clear that the method of calculation resorted to by the petitioner is to be adopted. So the increments that were earned by Lakshmipathy in 1/3rd scale has to be converted into 1/2 increments in which case it would be 10 half increments with a fraction of 1/3. So on elevation of Lakshmipathy to 1/2 scale he should be fitted in the 11th stage. The method of calculation resorted to by the Respondent is only to be rejected.

15. The relevant clauses regarding fixing of scale on elevation states that the fraction of increment, if any, should be taken into account and the date of increment is to be advanced suitably. 1/3rd increment which is the fraction on conversion is equivalent to 8 months in 1/2 scale wage. Lakshmipathy has earned 3 months from the date of his earlier increments which was 01.04.2008 to the date of his elevation on 02.07.2008. This three months in 1/3rd scale comes to 2 months in 1/2 wage scale. Thus, he had 10 months to his credit after fixing his pay at the 11th stage. So the next increment of Lakshmipathy on advancing it by 10 months will be 02.09.2008.

16. On the basis of my findings above, an award is passed as follows :

- (i) The Respondent is directed to fix the salary of Lakshmipathy, the concerned workman at the 11th stage in the 1/2 scale.
- (ii) The first increment date of Lakshmipathy in 1/2 scale wages is declared as 02.09.2008.
- (iii) The Respondent shall calculate the wages at the above rate and pay arrears of wages, if any, to Lakshmipathy within a month of the date of the award.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th September, 2014).

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner : None
For the 2nd Party/Management : None

Documents Marked :

On the petitioner's side

| Ex.No. | Date | Description |
|--------|------------|-----------------------------------------------------------|
| Ex.W1 | Nil | Page No. 12.6 and 12.7 of HRM Manual of instructions 2009 |
| Ex.W2 | 25.03.2009 | Copy of letter from Circle Office, Chennai sanctioning |

| | | | | | |
|--------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | enhancement of scale wages to Sri U. Lakshmipathy, PTS, Aminjikarai | | | represented by the Indian Banks' Association and their workmen represented by All India Bank Employees' Association and the National Confederation of Bank Employees – (Extract of Page Nos. 261, 629 and 270) |
| Ex.W3 | 16.12.2010 | Copy of letter from HO/HRM Department re-fixing the wages to Sri U. Lakshmipathy, and also for recovery of excess salary paid | Ex.M3 | 10.04.1989 | Memorandum of Settlement between the Managements of 54 "A" Class Banks represented by Indian Banks' Association and their workmen represented by the All India Bank Employees Association and the National Confederation of Bank Employees (V-BPS-Extract – Page Nos. 382, 393, 394 and 395) |
| Ex.W4 | 20.12.2010 | Copy of letter from Zonal Office (North), Chennai to Aminjikarai branch for recover of excess salary paid | | | |
| Ex.W5 | Nil | Copy of letter from Aminjikarai branch to HO/HRM Department for confirmation of amount to be recovered | | | |
| Ex.W6 | 12.01.2011 | Copy of the letter from HO/HRM Department to Aminjikarai branch instructing to recover Rs. 59,052.16 from Sri Lakshmipathy | Ex.M4 | 07.01.2011 | Letter (Manuscript) from Manager, Aminjikarai Branch to Chief Manager, HRM Department, Indian Bank, H.O. Chennai – enclosing salary paid and salary payable – Calculation Sheet (Typed one) |
| Ex.W7 | 29.06.2011 | Copy of the letter from Zonal Office (North), Chennai for recovery of excess salary paid | | | |
| Ex.W8 | 31.01.2011 | Letter from Indian Bank Employees Union, Chennai to ALC (C), Chennai raising a dispute over the recovery | Ex.M5 | 21.06.2011 | Letter from Indian Bank, Z.O., Chennai North, HRM Secn. – Chennai-8 to B.M. – Aminjikarai (ZO-CH-(N)-40-2011/12 dated 21.06.2011) |
| Ex.W9 | 20.04.2011 | Copy of the counter reply submitted by HO/HRM Department | Ex.M6 | 20.10.2011 | Conciliation Failure Report by ALC (C), Chennai |
| Ex.W10 | 22.07.2011 | Rejoinder submitted by the Union to the counter reply | Ex.M7 | 30.03.2012 | Letter from U. Lakshmipathy – PTS – Aminjikarai Branch to AGM – Corporation Office, Chennai-600014 |
| Ex.W11 | 08.08.2011 | Letter from Indian Bank Employees Union, Chennai addressed to ALC, Chennai over the contravention of Provision 33 of ID Act by the Indian Bank Management. | Ex.M8 | 17.05.2012 | Letter from Zonal Office, Chennai North, HRM Section to Branch Manager, Aminjikarai – Sanction of Increment. |

On the Management's side

| Ex.No. | Date | Description |
|--------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.M1 | 15&16/4/1980 | Minutes of discussions between Bank's Association, All India Bank Employees' Association and National Confederation of Bank Employees – (Extract of Page Nos. 245, 246, 247, 248) |
| Ex.M2 | 08.09.1983 | Memorandum of Settlement dated 08.09.1983 between the Management of 58 Banks |

नई दिल्ली, 29 सितम्बर, 2014

का.आ. 2703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाइफ इन्शुरन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 58/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 6-6-2014 को प्राप्त हुआ था।

[सं. एल-17012/16/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 29th September, 2014

S.O. 2703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/2013) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman, which was received by the Central Government on 6/6/2014.

[No. L-17012/16/2013-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 58 of 2013

Parties: Employers in relation to the management of
Life Insurance Corporation of India

AND

Their workman

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance:

On behalf of the : Mr. D. K. Pal, Ld. Counsel
Management

On behalf of the : None
Workmen

State: West Bengal Industry: Life Insurance

Dated: 20th May, 2014

AWARD

By Order No.L-17012/16/2013-IR(M) dated 28.10.2013 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Life Insurance Corporation of India in terminating the services of Shri Arpan Chatterjee, working as Development Officer on probation, is legal and justified? What relief the workman is entitled to?”

2. When the case is taken up for hearing today, none appears on behalf of the workman through the management is represented by its Ld. Counsel. It appears from the record that the workman is absent since 03.02.2014, i.e., for three consecutive dates.

3. The conduct of the workman goes to show that he is not at all interested to proceed with this reference case further. Perhaps he has got no grievance against the management at present.

4. In view of the above, instant reference is disposed of by passing a “No Dispute Award”.

Dated, Kolkata,

The 20th May, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2014

का.आ. 2704.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इण्डिया लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, मुम्बई के पंचाट (संदर्भ संख्या 31 of 2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 30-09-2014 को प्राप्त हुआ था।

[सं. एल-11012/71/2006-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 30th September, 2014

S.O. 2704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure, in the industrial dispute between the management of M/s. Air India Limited, and their workmen, received by the Central Government on 30-09-2014.

[No. L-11012/71/2006-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

Present : JUSTICE S.P. MEHROTRA, Presiding Officer
REFERENCE NO. CGIT-1/31 OF 2007

Parties : Employers in relation to the management of
Air India Limited

And

Their workman (P.N.Sugunan)

Appearances :

For the first party/ : Ms. Shehwar Qureshi holding
Management brief for M. Lancy D'Souza

For the second : None present
party/workman

Satate : Maharashtra

Mumbai, dated the 13th day of August, 2014

AWARD

1. The present reference has been made by the Central Government by its order dated 14.6.2007 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference as per the schedule to the said order are as under:

“Whether the action of the Mangement of Air India Limited, Mumbai in dismissing the services of Shri P.N.Sugunan, Cleaner w.e.f.24.10.2000 is justified and legal? If not, to what relief is the concerned workman entitled?”

2. By the order dated 29.6.2007, notice was directed to be issued to the parties fixing 13.8.2007.

3. Notices were accordingly issued by Registered Post AD to both the parties. Notice issued to the second party/ Workman was duly served and the Acknowledgement Card was received back. On 13.8.2007, the post of Presiding Officer of this Tribunal was vacant. Appearance was put in on behalf of the first party/Management on the said date. However, none appeared on behalf of the second party / Workman nor was any Statement of Claim filed. The case was thereupon adjourned to 11.10.2007 for filing Statement of Claim.

4. On 11.10.2007, the post of Presiding Officer of this Tribunal was vacant. Representative for the first party / Management was present. However, none was present for the second party/Workman. No Statement of Claim on behalf of the second party/Workman was filed on the said date. In the circumstances, the case was fixed for 7.12.2007 for filing Statement of Claim.

5. On 7.12.2007, again, none was present on behalf of the second party/Workman nor was any Statement of Claim filed. Representative for the first party/Management was present. The case was thereupon adjourned to 16.1.2008 for filing Statement of Claim.

6. The case was thereafter fixed on various dates in the years 2008 and 2009. In the year 2010 also various dates were fixed till 20.10.2010. However, on none of these dates, anyone was present on behalf of the second party / workman nor was Statement of Claim filed on behalf of the second party/Workman. Ultimately on 16.12.2010, Mrs.P.S.Shetty, Advocate put in appearance on behalf of the second party / Workman and prayed for time for filing Statement of Claim. The case was accordingly adjourned to 20.1.2011 for filing Statement of Claim.

7. Again on 20.1.2011, Mrs.P.S. Shetty, learned counsel for the second party / Workman prayed for further time for filing Statement of Claim. The case was accordingly adjourned to 10.3.2011.

8. On 10.3.2011, Mrs.P.S.Shetty, learned counsel for the second party/Workman prayed for further time for filing Statement of Claim. The case was accordingly adjourned to 21.4.2011 for filing Statement of Claim.

9. On 21.4.2011, Mrs. P. S. Shetty, learned counsel for that second party/Workman stated that the second party/Workman was not contacting her despite letter having been sent to the second party/Workman.

10. In the circumstances, this Tribunal by order dated 21.4.2011, directed for issuance of fresh notice to the

second party/Workman. The said order was reiterated by this Tribunal on various dates namely 1.2.2012, 14.3.2012, 25.4.2012, 28.6.2012, 30.8.2012, 10.10.2012, 5.12.2012, 30.1.2013, 13.3.2013 and 17.4.2013.

11. On 9.4.2014, the Tribunal took note of the aforesaid earlier orders passed for issuance of notice to the second party/Workman. As needful had not so far been done for compliance of the said orders, the Tribunal by order dated 9.4.2014 directed for issuance of fresh notice to the second party/Workman by Registered Post AD. It was further directed that notice be also given dasti to the learned counsel for the Management for service on the second party/Workman.

12. Notice issued by Registered post AD pursuant to the order dated 9.4.2014 was served on the second party/ Workman, and the Acknowledgement Card was also received back. However, despite service of notice wherein 26.6.2014 was fixed, none was present on behalf of the second party/workman on 26.6.2014. No Statement of Claim was filed by the second party/Workman on the said date. Learned counsel for the first party/Management was present on the said date.

13. In the circumstances, by the order dated 26.6.2014, the case was adjourned to 31.7.2014. Again, on 31.7.2014, none was present for the second party/Workman. No Statement of Claim on behalf of the second party/ Workman was filed on the said date. Smt.Vrunda Borjee, holding brief for Shri Lancy D’Souza, learned counsel for the first party/Management was present.

14. In the circumstances, by the order dated 31.7.2014, the case was directed to be put up on 13.8.2014 i.e. today for filing Statement of Claim.

15. The case is taken up today. Ms. Shehwar Qureshi, holding brief for Shri Lancy D’Souza, learned counsel for the first party / Management is present. However, none is present on behalf of the second party/workman. No Statement of Claim has been filed on behalf of the second party/Workman.

16. From the above narration of facts, it is evident that despite the passage of several years, since the reference was made in the year 2007, no Statement of Claim has so far been filed on behalf of the second party/Workman. Despite service of fresh notice on the second party/ Workman, none has put in appearance on his behalf.

17. There is thus no pleading or evidence filed on behalf of the second party/Workman in support of his claim as contained in the present Reference. No relief can, therefore be granted to the second party/workman.

18. Reference is answered by stating that no relief can be granted to the second party / workman.

19. Award is passed accordingly.

Justice S. P. MEHROTRA, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2014

का.आ. 2705.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअरवेज इण्टरनेशनल पब्लिक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकता के पंचाट (संदर्भ संख्या 34 of 2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 30-09-2014 को प्राप्त हुआ था।

[सं. एल-11012/14/2013-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 30th September, 2014

S.O. 2705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of M/s. Airways International Public Company Limited, and their workmen, received by the Central Government on 30-09-2014.

[No. L-11012/14/2013-IR (CM-II)]

M. K. SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 34 of 2013

Parties: Employers in relation to the management of
Thai Airways International Public Company Ltd.

AND

Their workman

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance:

On behalf of the : Mr. S. Dawn, Ld. Counsel with
Management Mr. A.K. Goopla, Ld. Counsel

On behalf of the : None
Workmen

State: West Bengal Industry : Civil Aviation

Dated : 19th September, 2014

AWARD

By Order No. L-11012/14/2013-IR (CM-I) dated 11-6-2013 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of M/s. Thai Airways International Public Company Ltd. is justified in terminating the services of Sri Kartik Ghosh, Cleaner is legal and justified? To what relief is the concerned workman entitled?”

2. When the case is taken up for hearing on 21.07.2014, none appeared on behalf of the union or workman inspite of service of notice, though the management is represented by its Ld. Counsel. It appears from the record that union/workman never appeared in this reference, nor any step has yet been taken on its behalf to proceed with the matter.

3. Considering the above facts and circumstances, it appears that neither the workman nor the union is at all interested to proceed with the case further. So, no fruitful purpose will be served in keeping the matter pending.

4. Accordingly, the instant reference case is disposed of by passing a “No Dispute Award”.

Justice DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,

The 19th May, 2014.

नई दिल्ली, 7 अक्टूबर, 2014

का.आ. 2706.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एनटीपीसी एवं आर्थर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1ए चंडीगढ़ के पंचाट (संदर्भ संख्या 88/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/09/2014 को प्राप्त हुआ था।

[सं. एल-42012/17/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 7th October, 2014

S.O. 2706.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 88/2014) of the Central Government Industrial Tribunal- cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NTPC & Others and their workman, which was received by the Central Government on 26/09/2014.

[No. L-42012/17/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH

Case No. ID No. 88 of 2014.

Reference No. L-42012/17/2014/IR(DU)

Dated 01/05/2014

Shri Rajinder Prashad

son of Shri Sawalia,

C/O Shri Inder Kumar Rawat,

Pradhan/AR, House No. 367,

Sector-18, Faridabad-121002.

.....Workman

Versus

1. The Manager,
M/s. NTPC, Mujeri,
PO- Nimka, Tigoan Road,
Faridabad.
2. The Proprietor,
M/s. Dushyant Security Agency,
Shop No. 03, Rao Hira Lal Complex,
Opp. Syndicate Bank, Kadipur,
Pataudi Raod, Gurgoan-122001.Respondents

Appearances

For the Workman : None.

For the Management : Sh. Ajay Chandra and
Shri K.C. Pant for Respdt. No. 1
None for Respondent No. 2

AWARD PASSED ON:-23.09.2014

Government of India Ministry of Labour vide notification No. L-42012/17/2013/IR(DU) dated 01/05/2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

“Whether the action of the management of NTPC Ltd. & their contractors M/s. Dushyant Security Agency in terminating the services of the workman Shri Rajender Prashad w.e.f. 1.4.2013 is just fair and legal? If not, to what relief the workman concerned is entitled to?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already two opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed of for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed.

Chandigarh.

23.09.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 2014

का.आ. 2707.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेन्ट ऑफ रेलवे मेल आरएमएस मदुरै डिवीजन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 11/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/09/2014 को प्राप्त हुआ था।

[सं. एल-40012/127/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 7th October, 2014

S.O. 2707.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 11/2014) of the Central Government Industrial Tribunal- cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Senior Superintendent of Railway Mail, RMS, Madurai Division and their workman, which was received by the Central Government on 26/09/2014.

[No. L-40012/127/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Monday, the 22nd September, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 11/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Senior Supdt. of Railway Mail Service and their workman)

BETWEEN

Sri K. Surendra Udaiyar : 1st Party/Petitioner

AND

The Senior Superintendent
of Railway Mail : 2nd Party/Respondent
RMS, Madurai Division
Madurai-625001

Appearance :

For the 1st Party/ : M/s. Sri R. Malaichamy,
Petitioner Advocates

For the 2nd Party/ : M/s. Sri M. Liagat Ali (ASGC)
Respondent

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-40012/127/2013-IR(DU) dated 17.02.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action taken by the Management of RMS, Sub-Record Office, Tirunelveli in terminating the services of Sri Surendra Udaiyar, GDS MM w.e.f. 15.05.2012 is justified? If not, what relief is the workman entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 11/2014 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed their claim and counter statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

One Kannan who was working as Gramin Dak Sevak Mailman (GDS MM) in the Second Respondent's office was ordered to officiate as Group 'D' from 02.02.2001. The petitioner was ordered to carry out the duties of GDS Mailman w.e.f. 03.02.2001. The petitioner worked as GDS Mailman continuously for more than 10 years. Kannan was given promotion w.e.f. 17.06.2011. The petitioner was permitted to continue as GDS Mailman till 14.05.2012. He worked against a clear vacant post from 17.06.2011 to 14.05.2012 and completed more than 240 days of work in the capacity of GDS Mailman. The Second Respondent denied work to the petitioner from 15.05.2012. The efforts of the petitioner to get reinstated in service has failed. The action of the Second Respondent in refusing employment to the petitioner is illegal and unjustified. The Second Respondent has removed the petitioner from service in violation of section-25F of the Industrial Disputes Act. An award may be passed directing the Respondents to reinstate the petitioner with continuity of service, back wages and other attendant benefits.

4. The Respondents have filed Counter Statement contending as follows:

The dispute is not maintainable as there has been no privity of contract between the petitioner and the Respondents. The petitioner has stepped into the shoes of one Kannan and has raised the dispute. He is not an employee of the Respondents. Kannan, without any authority substituted the petitioner on his own responsibility. No order has been made to nominate anyone in the place of Kannan. The Directorate of the Respondents has declared GDS Mailman as Wasting Group by order dated 21.07.2010. The nomination of the petitioner as substitute for Kannan was only based on an understanding between Kannan and the petitioner. The petitioner was never permitted to work as GDS Mailman by the Respondents. The averment that the petitioner had completed 240 days of work has no application to the case. The petitioner never worked in any clear vacancy post under the Respondents, but only as a substitute of Kannan. The engagement of petitioner by Kannan as substitute does not give him any right under Section-25F of the Industrial Disputes Act. The petitioner is not entitled to any relief.

5. The evidence in the case consists of the oral evidence of the petitioner examined as WW1. No documents were marked on either side.

6. **The points for consideration are:**

- (i) Whether the termination of the petitioner if any from the service of the Respondents is justified?
- (ii) To what relief, if any, is the petitioner entitled?

The Points

7. The petitioner has claimed that he had worked under the Second Respondent as GDS Mailman for almost 11 years. According to him, one Kannan who was working as GDS Mailman under the Second Respondent was ordered to officiate in a Group 'D' post from 02.02.2001 and consequently, the petitioner was asked to carry out the duties of GDS Mailman in the Second Respondent's office from the next day. He has claimed that he was working in this capacity for more than 10 years. Kannan is said to have been promoted on permanent basis w.e.f. 17.06.2011, consequent to which the petitioner was permitted to continue to work against the vacancy created by the promotion of Kannan. According to the petitioner he has thus worked from 17.06.2011 to 14.05.2012 and completed more than 240 days of work as GDS Mailman. The petitioner has tendered evidence as WW1 reiterating his case in the petition. According to the petitioner though he was aspiring to be regularized in service by the Second Respondent, he was denied work from 15.05.2012.

8. In the Counter Statement filed by the Respondents the Respondents have no case that the petitioner never worked as GDS Mailman. The case that is advanced is that the Second Respondent itself had never engaged the petitioner but Kannan seems to have taken the petitioner as his substitute on his own responsibility. It has been asserted by the Respondents in the Counter Statement that the petitioner was never permitted to work in the capacity of GDS Mailman by them and therefore his claim that he has completed 240 days of work is without any substance.

9. The petitioner has not produced even a piece of paper to show that he has worked with the Respondents. His claim is that he had worked in the place of Kannan for long 10 years until he was promoted on 03.02.2001 and thereafter also against the vacant post till 14.05.2012. In spite of the claim of a long period of service there are absolutely no documents to support this contention.

10. The counsel for the petitioner has argued that it is a case where the Respondents have admitted that the petitioner has been working under them and therefore non-production of documents by the petitioner is not of any disadvantage to the petitioner., The counsel has also referred to the decision of the Madras High Court in UDAY KUMAR VS. TELECOM GENERAL MANAGER AND OTHERS reported in 2011 (2) CWC

870 where it was held that the Court cannot compel a litigant to produce a document which is not existing. It was a case where the Writ Petitioner has worked with BSNL as Waterboy without any appointment or termination. In the absence of any such appointment or termination there was no question of compelling the concerned worker to produce the documents, it has been held by the High Court. However, in the above case there were indisputable internal correspondence to prove the case on which basis order was made.

11. So far as the present case is concerned except the version given by the petitioner during his examination, there is no other evidence to show from which period to which period he has been working with the Respondents. The claim on behalf of the petitioner that there is total admission on the part of the Respondents regarding the engagement of the petitioner is not correct. What is stated by the Respondents is that without any authority by them Kannan might have engaged the petitioner as an outsider. According to the Respondents, they never permitted the petitioner to work as GDS Mailman. If the petitioner was working under the Second Respondent, even based on unauthorized engagement by Kannan as a substitute, the petitioner must have been receiving wages from the Second Respondent in which case some wage slips at least must have been there. It is for the petitioner to prove that he had worked for more than 240 days on a vacancy as claimed by him under the Respondents. In the absence of such proof his claim for reinstatement could not be considered. Even his claim that there is violation of Section-25F of the ID Act also is to be rejected. I find that the petitioner is not entitled to any relief.

12. The reference is answered against the petitioner.

An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : WW1, Sri K. Surendra Udaiyar
Petitioner

For the 2nd Party/ : None
Management

Documents Marked :

On the petitioner's side

| Ex.No. | Date | Description |
|--------|------|-------------|
| | | Nil |

On the Management's side

| Ex.No. | Date | Description |
|--------|------|-------------|
| | | Nil |

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2708.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई डी बी आई बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 5/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-12011/35/2009-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2708.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 5/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of IDBI Bank and their workmen, received by the Central Government on 09/10/2014.

[No. L-12011/35/2009-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 05 of 2010

Parties : Employers in relation to the management of
IDBI Bank Limited

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the Management : None.

On behalf of the Workmen : None.

State : West Bengal.

Industry : Banking.

Dated: 15th September, 2014.

AWARD

By Order No.L-12011/35/2009-IR(B-II) dated 01.06.2009 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the impugned transfer order dated 30th January, 2009 transferring Shri Jagannath Raymandal and nine others from Kolkata Branch office to various branches, is justified and legal? Whether the action of the management in relieving the workmen concerned from their duties on 2nd Feb’ 09 and striking their names from the muster of old

branch from 3rd February' 2009, is to be treated as alteration in condition of service to the prejudice to the workmen during pendency of conciliation? What relief the workman are entitled for?"

2. When the case is called out today, none appears on behalf of either of the parties. It appears from the record that the union is absent for the last two consecutive dates.

3. Considering the above facts and circumstances, it appears that the union is not at all interested to proceed with the case further. So, it appears that no fruitful purpose will be served in keeping the matter pending.

4. Accordingly, the instant reference case is disposed of by passing a "No Dispute Award".

Dated, Kolkata,

The 15th September, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2709.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्रा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 2/09) को प्रकाशित करती है जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-12012/124/2007-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/09) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 09/10/2014.

[No. L-12012/124/2007-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/2/09

PRESIDING OFFICER : SHRIR.B.PATLE

General Secretary,

Dainik Vetan Bhogi Bank Karmchari Sangathan,

F-1, Tripti Vihar, Karma Bhoomi,

Opp Engineering College,

Ujjain, MP.

.....Workman/Union

Versus

Asstt. General Manager,

Bank of Maharashtra,

1/114, Regional office,

Arera Hills, Jail Road,

Bhopal, MP.

.....Management

AWARD

Passed on this 30th day of July 2014

1. As per letter dated 7-1-2009 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/124/2007-IR(B-II). The dispute under reference relates to:

"Whether the claim of Shri Nand Kishore Namdeo, workman that he was in the service of Bank of Maharashtra from 27-9-01 to 15-3-2005 and his termination from the services by the management of Bank of Maharashtra w.e.f. 15-3-2005 after completing 240 days of continuous service is legal and justified. What relief the concerned workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through Secretary, Dainik Vetan Bhogi Bank Employees Union at Page 1 to 5. Case of Ist party is that he was engaged on daily wages by Branch Manager Vijay Kumar on 27-4-01. The wages were increased from Rs. 30 to 50, 55, 65. He was paid wages for national holidays, weekly holidays. He completed 240 days continuous service. His services were terminated from 15-3-2005 without notice. The termination of his service is in violation of Section 25-F of I.D.Act. Principles of last come first go was not followed. He was not provided employment. Other persons were engaged as such IInd party violated Section 25-F of I.D.Act. on such ground, workman prays for his reinstatement with consequential benefits.

3. IInd party filed Written Statement. Case of IInd party is that workman was engaged as casual labour on temporary basis. After receiving list of selected candidates, the workman worked for 40 days during March to December 2001, 54 days from Jan to Dec-02, 45 days in 2003, 58 days in 2004. Workman has not completed 240 days continuous service. He is not entitled to notice under Section 25-F of I.D.Act. on such ground, IInd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the claim of Shri Nand Kishore Namdeo, workman that he was in the service of Bank of
- In Negative

Maharashtra from 27-9-01 to 15-3-2005 and his termination from the services by the management of Bank of Maharashtra w.e.f. 15-3-2005 after completing 240 days of continuous service is legal and justified

- (ii) If not, what relief the workman is entitled to?" Workman is not entitled to any relief.

REASONS

5. Though workman is challenging termination of his service under Section 25-F, H of I.D. Act, his claim is denied by management. Workman failed to participate in reference proceeding. Application is submitted by workman that he is in employment of Bank. He is desiring to prosecute present reference therefore I record my finding in Point No.1 in Affirmative.

6. In the result, award is passed as under:-

- (1) The claim of Shri Nand Kishore Namdeo, workman that he was in the service of Bank of Maharashtra from 27-9-01 to 15-3-2005 and his termination from the services by the management of Bank of Maharashtra w.e.f. 15-3-2005 after completing 240 days of continuous service is not legal and proper.
- (2) Workman is not entitled to any relief as prayed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2710.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुंबई पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुंबई के पंचाट (के.स.औ.अ. 48/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-31011/14/2007-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2710.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the management of Mumbai Port Trust and their workmen, received by the Central Government on 09/10/2014.

[No. L-31011/14/2007-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : K. B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/48 of 2007

EMPLOYERS IN RELATION TO THE MANAGEMENT OF MUMBAI PORT TRUST

The Chairman
Mumbai Port Trust
Pot House, Ballard Estate
Mumbai-400 038.

AND

THEIR WORKMEN

Shri L. P. Churnarkar
C/o. Ms. Sunita Kamatkar
House No. D-17, Maji Sainik Colony
At Padegaon Aurangabad
Tal. Distt. Aurangabad
M.S.-431 001.

APPEARANCES:

For the Employer : Mr. Umesh Nabar, Advocate

For the Union : Shri Mahadevan S. Iyer, Advocate

Mumbai, dated the 26th August, 2014

AWARD PART-II

The Government of India, Ministry of Labour & Employment by its Order No.L-31011 / 14 / 2007-IR (B-II), dated 04.10.2007 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of Mumbai Port Trust in terminating the services of Shri L.P. Churnarkar w.e.f. 11/1/1999 is justified? If not, what relief Shri L.P. Churnarkar is entitled to?”

2. The Second party workman is the employee of the first party. He was in a habit of remaining absent. On earlier occasions he was held guilty for absenteeism and some minor punishments were imposed on him. In spite of that the workman did not improve his habit of absenteeism and he was absent for 555 days on 11 occasions during the period 20/5/1994 to 17/06/1998. Therefore he was charge-sheeted for the said misconduct and Inquiry Officer was appointed to conduct the inquiry against the workman. The workman appeared before the I.O. on the first date. However thereafter he remained absent. The I.O. thus proceeded with the inquiry. He held the workman guilty and submitted his report to the Disciplinary authority. On the basis of his report, the disciplinary authority terminated the services of the workman. The workman raised industrial dispute before ALC ©. ALC tried to settle the matter. However

conciliation failed. Therefore on the report of ALC ©, the Central Labour Ministry sent the reference to this Tribunal. In Part-I Award this Tribunal held that the inquiry was fair and proper and the findings of the I.O. are not perverse and parties were given liberty to argue on the point of quantum of punishment.

3. Now in this part-II award following are the remaining issues for my determination. I record my findings thereon for the reasons to follow:

| Sr. | Issues | Findings |
|-----|------------------------------------------------------------------------------------------------------------------------|---------------------|
| 3 | Whether the action of terminating the services of the workman is shockingly disproportionate to the proved misconduct? | Yes. |
| 4 | If yes, what relief the workman is entitled to? | As per order below. |
| 5 | What order? | As per order below. |

REASONS

Issues nos. 1 & 2:-

4. In the case at hand it was submitted on behalf of the workman that there was nobody in his family to look after his ill taken mother who was also physically handicapped. She was staying at his native place at Chandrapur and he was required to look after his ill taken and physically handicapped mother. Therefore on many occasions he could not attend his duties. In short according to him he was required to perform pious obligation to attend his ill taken mother as there was nobody in his family to attend his mother. According to him his mother expired just few days prior to the date of termination of his services. In this respect I would like to point out that absenteeism or remaining absent from duty though amount to misconduct, it is not so grievous as like committing theft or insubordination by assaulting the superior officer or like that of misappropriation of funds or property. At the same time I would also like to point out that had it been first incident, the workman could have been relieved by giving mere warning. In the case at hand the workman was found absent from duty repeatedly. In spite of awarding some minor penalty, the workman did not show any improvement. Therefore the disciplinary authority imposed the extreme penalty of terminating his services.

5. In this respect the fact is not disputed that the workman was not before the Inquiry Officer or before the disciplinary authority to explain the reason of his absenteeism. Therefore as they found repeated act of absenteeism, they awarded extreme penalty of termination of services of the workman. In this respect I would like to point out that though the reason put forth on behalf of the workman is not sufficient to absolve him from the charges of absenteeism, however this reason can very well be considered while awarding the punishment. Had it been

found that the workman was required at his native place to take care of his ill taken physically handicapped mother, the disciplinary authority would not have imposed the extreme punishment. In the circumstances as the workman was in genuine difficulty, being the only son he remained absent from duty in order to perform his pious obligation to provide treatment to his ill taken mother. These circumstances lead me to the conclusion that the punishment of termination of services of the workman is shockingly disproportionate to the proved misconduct of absenteeism. In this respect after considering the overall facts I am of the opinion that instead of dismissal from service, compulsory retirement with all pensionary benefits would have served the purpose. Therefore to meet the end of justice, I hold that in this particular circumstance the punishment of dismissal from service is found to be shockingly disproportionate to the proved misconduct. Instead of that I think it proper to substitute the punishment of compulsory retirement with all pensionary benefits to the workman. Accordingly I partly allow the reference and proceed to pass the following order.

ORDER

- (i) The reference is partly allowed with no order as to cost.
- (ii) The punishment of dismissal from service/ termination of services is hereby set aside. Instead of that the workman is compulsorily retired with all pensionary benefits.

Date: 26/08/2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2711.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-2 के पंचाट (संदर्भ संख्या 10/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-12011/7/2006-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2711.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 09/10/2014.

[No. L-12011/7/2006-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD****PRESENT : SHRI KISHORI RAM, Presiding Officer**In the matter of an Industrial Dispute under
Section 10(1)(d) of the I.D. Act, 1947**REFERENCE NO. 10 OF 2007**

PARTIES : The General Secretary,
PNB Employees Union,
Exhibition Road,
Patna Camp: LDM Office, Patna.

Vs.

The Zonal Manager
Punjab National Bank,
Zonal Office, Chanaky Place, R Block,
Patna.

Ministry's Order No. L-12011/7/2006-IR(B-II)

Dt. 06.02.2007

APPEARANCES :On behalf of the : Mr. D. Mukherjee, Ld. Advocate
workman/UnionOn behalf of the : Mr. O.P. Verma, Ld. Advocate
Management

State : Bihar Industry : Banking

Dated, Dhanbad, the 25th August, 2014.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on then under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12011/7/2006-IR (B-II) dt.06.02.2007.

SCHEDULE

(i) "Whether the action of the Management of Punjab National Bank, the Zonal Manager, Patna in depriving Hri Naresh Prasad part time 1/3rd scale of wage from the promotion to higher scale of wages of part time sweeper is legal and justified? If not what relief the workman is entitled to? (ii) Whether the action of the Management of Punjab National Bank Zonal Manager, Patna denying the inclusion of the name of Shri Naresh Prasad in the seniority list of full time sweeper/part time sweeper is justified? If not what relief the workman is entitled to?"

On receipt of the Order. No. L-12011/7/2006-IR(B-II) dt.06.02.2007 of the above mentioned reference from the Government of India, Ministry of Labour and Employment, New Delhi for adjudication of the dispute, the Reference Case No. 10 of 2007 was registered on 20th

February, 2007 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Learned Counsels appeared in, and contested the case.

2. The case of workman Naresh Prasad as sponsored by the PNB Employees' Union Patna, Bihar, is that he had been workings as a part time gardener sincerely due to which he was confirmed as a permanent workman in 1/3 Part time sweeper. Though he had the designation of Gardener, he had been actually performing the job of sweeper and a peon. As per the Bipartite settlement, only the permanent employee performing the job of permanent nature can be promoted in the scale of 1/3 wages. He was accordingly promoted and confirmed for 1/3 scale of wages as the Office Order dt. 20.4.1984 as also confirmed as per the Zonal Office letter dt. 30.11.1984 whereby his wage was enhanced to 1/3 scale of wages of a regular employee w.e.f. 1.4.1984. Accordingly the working hour of the workman was refixed as per the Bank Rule. The personnel Division Circular No.772/84 dt.17.5.1984 and the Bi-partite Settlement dt. 27.3.2000 are supportive to the case of the workman who has been working, practically discharging the job of the peon. The seniority list as per the Circular dt. 22.7.2003 was prepared for absorption as peon, But the action of the Management in denying the inclusion of the workman in the Seniority List of full time sweeper/part time sweeper, thus depriving him in part time 1/3 scale of wage of the promotion to higher scale of wages is neither legal nor justified, as it was vindictive and anti labour practice. The workman as well as the Union several times represented for it, but no effect. Finally, the Industrial Dispute raised ended in failure due to adamanent attitude of the Management resulted in the reference for an adjudication.

The workman himself in his rejoinder denying the allegations of the O.P./Management, alleging his promotion to the scale of one third wages as per the Bi-partite Settlement and after completion of six months satisfactory work, his confirmation as per Order dt. 20.4.1984. So he claims for entitlement to one third wage scale and inclusion of his name in the seniority list for full time sweeper/part time sweeper.

3. Contrary to it, the contra case of the O.P./Management is that the dispute not validly sponsored as required under the I.D. Act 1947 is not the Industrial Dispute. The service conditions of the staff of the Bank are governed by the Sastry Award, Desai Award and the

Bipartite Settlement dt.19.10.1966 as amended time to time. Workman Naresah Prasad was appointed as Part Time Mali (Gardener) in 1/3 scale wages at the Zonal Training Centre, Patna, to look after the flower plants grown in the open land and pots there, for which the wages was paid to him as per the Bipartite Settlement. The fixation of wages of part time employees (Sweepers) in the subordinate cadre is regulated by the Settlement dt. 07.05.1984 between the Bank and All India PNB Employees Federation, the Majority Union in the bank which was circulated as per the Division Circular No.722 dt.17.5.1984. According to the settlement, the vacancies of part time sweeper in 1/2, 3/4 or 4 full wages arising at the Station where the Bank has more than one office shall be filled up on the basis of seniority by conversion of services at 1/3, 1/2 or 3/4 of scale wages into full time services. The procedure of the filling up vacancies is to be followed unless "Thikana" system is in vogue at that particular area. The fixation of wages payable to part time employees (Sweeper) in subordinate cadre as per clause I of the Settlement is effected as such Rs.60 p.m. (revisable time to time by a Bipartite Settlement entered at Industry level), 1/3, 1/2, 3/4 and full scale wages for their specified Area cleaned to the hours of work per week, less than 6, 6-13, 13-19, 19-21 hours and full time respectively. For eligibility of higher scale wages, the part time sweeper has to sweep more area for increased hours which is not the case of the workman. The settlement under the reference does not provide for any criteria for fixation of the Gardener's wages to which he belongs to. Thus, the workman is not entitled to any relief either in fact or in law.

The O.P./Management has categorically denied all the allegations of the Union concerned for the workman, and stated that the appointment of Sri Naresh Pd. as a Part Time "Mali" (Gardener) at Zonal Training Centre, Patna, on 01.04.1984 with the consent of H.O. in a special circumstances. The workman never performed the duties of a sweeper, rather Shri Gautam Bhattacharya and Shri Sikander Rai had worked as the sweeper-peon and a part time sweeper respectively at the relevant time. The appointment of a part time employee on 1/3 scale of wages does not constitute promotion. The wages of the workman was enhanced to 1/3 scale wages w.e.f. 01.04.1984. He was neither promoted nor confirmed in the 1/3rd scale, rather his confirmation in that scale was on 01.10.1984 after completion of 6 months. The action of the Management is neither against the principle of natural justice and the settled law of Land nor vindictive nor discriminatory.

FINDING WITH REASONS

4. In this reference, WWI Naresh Prasad, the workman himself on behalf of the Union, and MWI Santosh Kumar, the Senior Faculty for the O.P./Management on their own affidavited chiefs have been examined respectively.

On perusal of the materials on the case record, it appears to be incontrovertial that the status of workman is as a part time gardener who has got the enhancement of 1/3 rd wages of a regular employee w.e.f. 1.4.1984 as communicated by the letter dt.20.4.84 of the Training Manager (Ext.W.1 = Ext.M.1/1) to him. The workman was also communicated by the Training Manager as per his letter dt. 2.1.1985 (Ext.M 1/2) on the PNB letter pad as earlier that his service be deemed as permanent on 1/3 salary in the Bank, for which the Training Manager's letters dt. 29.2.84 and 27.12.1985 (Extt. M.3 & 1/3 respectively) seem to be his recommendation letters to the Zonal Manager and the Manager Personnel concerned for keeping the workman as a part time gardener on 1/3 basics in sanctioned vacancy in place of Sri Biswanath Sah Mali as noted in pen by the Training Manager himself. It is evident that the workman possesses neither appointment letter nor any confirmation letter as a proof of it or even for the post of the part time gardener nor any document to show his working as sweeper at any time.

5. Mr. D.Mukherjee, the Learned Counsel for the workman has to argue as per his note of argument that the workman in his evidence corroborated the pleading and the workman (WWI) in his cross examination has stated not to have worked as a Gardener, as there was no Gardener, Mr. Sikandar Raj who also worked as a sweeper in the Garden of P & T Training Centre from 1984, as well as in the Punjab National Bank premises, has been made a clerk four/five years ago. Further plea of Mr. Mukherjee for the workman is that the Management witness (MWI) in his cross examinations has practically admitted that in fact the workman was working as peon and sweeper. which is evident from the copies of the Dak Delivery Register and conveyance Allowance voucher etc., filed by the workman and confronted to the Management witness Santosh Kumar (MWI) who had established so, though the designation of the workman as Gardener. There is no such clear admission of the MWI. Mr. Mukherjee referring to the verdict of Hon'ble Apex Court in the case of F.C.I. Workers Union Vs. F.C.I. & Ors, reported in 1996 (2)L.L.N.871(SC) as a guide for appreciation of evidence and the documents on the instant case record has submitted as held there in that The approach made by the Tribunal even in the matter of marshalling or considering the materials placed before it would be wrong for the following reasons. The Tribunal was apparently of the view that there should be evidence to prove the facts as per the provisions of Evidence Act. It is not so, the Tribunal is not a Court. There should be only "materials" and not evidence as required by the Evidence Act. In fact, the Tribunal is not a Court, but a quasi judicial forum. The Labour Court/Tribunal is invested u/s 11 of the I.D.Act, 1947 read with its Rule 24 with the same powers as vested in a Civil court under the

Civil Procedure, 1908, while trying a suit/case, in respect of the matters: the attendance of a person and his examination, and production of documents and material object. As per Rule 10B (6) of the I.D. Act mandatorily to make a Memorandum of the substance of what is being deposed.

The term 'Evidence' means and includes oral and documentary facts as materials as to be likely to influence the determination of a cause as represented in the form of pleadings. The evidence in generic is applicable to the Industrial Dispute. It is settled law that it requires preponderances for an adjudication. Mr. Mukherjee by the materials in the instant means only filing of the documents on the case record without any statement of the workman at the point. Whereas he pleads for the evidence of the workmen as corroborative to his pleading. Consideration of the pleading and materials by this Tribunal in general manner as a prudent man is not a matter of marshalling. So such plea of Mr. Mukherjee appears to be far wide off the upright view of the Hon'ble Apex Court.

In this reference, the cross evidence of the workman (WWI) that he was appointed as a Sweeper part time but not as a Gardener is directly reverse to his pleading "had been working as a part time gardener...actually performing the job of sweeper and a peon" When confronted with the letter of Sri S. Samanta, Training Manager of the PNB dt. 20.4.84 (Ext. W., 1), the workman has affirmed it about the enhancement of his wages as gardener to 1/3 of wages of a regular employee w.e.f. 1.4.1984 as well as of refixing of his working hours as per Bank's rule

Further emphatic plea of Mr. Mukherjee, Learned Counsel for the workman is that the Dak Delivery Register (of the PNB Circle Training Centre, Patna—unauthenticated photocopies in nine sheets for two and seven days only in the year 1998 and 1999 respectively) on confrontation to Shri Santosh Kumar (MWI) bears the name of workman Naresh Pd. against the name of Peon, though the Management witness wondered how his name came into the register, as it is not the duty of the Gardener to deposit challan. The Management witness has flatly denied the working of the workman as a peon, expressing his ignorance of any payment of conveyance allowance to him for deposit of Tax Challan. The witness of Management has positively affirmed his chief in Para 7 of his affidavit that 'There is not any Cadre Scheme and criteria for fixation of higher wages for the part-time gardener (Mali)' nor the Shastri Award provides for promotion of the workman in higher scale of part time sweeper, as the nature of job of a part time sweeper and a part-time Gardener is quite different, because the former's work is governed by working hours and the area of cleaning.

6. On perusal and consideration of the materials on the case record, I find that the workman was only part time Gardener in 1/3 wage scale and there is no provision under the Bank rule for his promotion to higher Scale of a Part time sweeper's wage. Hence, it is, in the terms of the reference, responded and accordingly awarded as such:

- (i) No question arises as to the action of the management of PNB, Zonal Manager, Patna, in depriving Sri Naresh Prasad Part time 1/3rd scale of wage from the promotion to higher scale of wages of Part Time Sweeper as legal or illegal or justified or unjustified. The workman is not entitled to any relief.
- (ii) The action of the Management of PNB Zonal Manager, Patna, denying the inclusion of the name of Sri Naresh Prasad in the Seniority List of full time Sweeper/Part Time Sweepers is justified. So, the workman is not entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2712.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 40/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-12012/90/2012-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2712.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 09/10/2014.

[No. L-12012/90/2012-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Friday, the 19th September, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 40/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN

Sri K. Sekar : 1st Party/Petitioner

AND

The Zonal Manager : 2nd Party/Respondent
Indian Bank, Zonal Office
10, Kamaraj Salai
Puducherry-605011

Appearance:

For the 1st Party/ : Sri J. Thomas Jeyaprabhakaran,
Petitioner Authorized Representative

For the 2nd Party/ : M/s T.S. Gopalan & Co.,
Respondent Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/90/2012-IR(B.II) dated 05.03.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the management of Indian Bank in imposing the punishment of dismissal without notice to Sri K. Sekar is legal and justified? What relief the concerned workman is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 40/2013 and issued notices to both sides. The petitioner has entered appearance through his Authorized Representative and the Respondent through its counsel and filed their claim and counter statement respectively.

3. The averments in the Claim statement in brief are these:

While the petitioner was working as Clerk/Shroff at Sulankurichi Branch of the Respondent Bank he was issued with a Show Cause Notice dated 17.02.2011 alleging that he had misappropriated Bank's money to the extent of Rs. 4,500/- by two occasions. The petitioner has given reply denying the allegation. After this the Charge Sheet dated 30.05.2011 was served on him. Charge No. 1 in the Charge Sheet is that while functioning as Key Holding Shroff the petitioner had been negligent and due to his dereliction of duty there was shortage of one note each in two sections of Rs. 1000/- denomination held in the closing balance on 02.02.2011 which was detected on 03.02.2011 and that there was shortage of 5 pieces in the currency chest of Rs. 500/- denomination sent by him to the Currency Chest on 31.12.2010 and thus exposed the Bank to possible penal

action from RBI. The Second Charge against the petitioner was that he had stealthily removed the notes from the Cash Sections mentioned under the First Charge and misappropriated Bank's cash and consequent to the detection of the same he had compensated the Bank for the misappropriated amount. The reply submitted by the petitioner was found not satisfactory and a departmental enquiry was ordered against him. The enquiry was not conducted in a fair and just manner. The petitioner was not given opportunity to defend the case. He was not allowed to cross-examine the witnesses during the enquiry proceedings. The Enquiry Officer had submitted report with a finding that the charges against the petitioner are established. On the basis of this, the punishment of dismissal without notice was imposed on the petitioner. There is no justification for the punishment. The petitioner is entitled to be reinstated in service with continuity of service and back wages.

4. The Respondent has filed Counter Statement contending as follows:

While the petitioner was working at Pudupattu branch of the Respondent Bank there were numerous complaints against him in the matter of handling cash including complaint of surreptitiously removing currency notes received from the Account Holders. On 26.02.2008 a Show Cause Notice had been issued to him and he had given a reply accepting all the charges and pleading for leniency. The punishment of censure and bringing down to lower stage in the scale of pay by one stage without cumulative effect was imposed on the petitioner. Subsequently, he has been posted at Sulankurichi Branch. At Sulankurichi Branch the petitioner and one Sridhar were working as Cash-cum-Shroff and the post of Cashier used to be assigned to them by rotation. Sridhar had joined duty as Cashier on 03.02.2011. While he was checking the cash to take over charge from the petitioner, one piece each in two sections of Rs. 1,000/- denominations received from City Union Bank were found missing. This was reported to the Branch Manager. When the Branch Manager enquired with the petitioner he confessed the mistake, apologized and gave withdrawal slip for Rs. 2,000/- to make good the shortage. On 04.02.2011 Sulankurichi Branch had received a call from Cuddalore Currency Chest that 5 pieces were missing from one of the sections of Rs. 500/- denomination remitted from the Branch. Even before the Branch received a written complaint from the Currency Chest the petitioner confessed to the Branch Manager and others that he had taken the money and agreed to make good the shortage. He gave a withdrawal slip of Rs. 5,000/- and after collecting the cash remitted Rs. 2,500/- and this was recorded in the cash balance book of 04.02.2011. On 07.02.2011 a Show Cause Notice was issued to the petitioner regarding the two incidents of shortage. The petitioner gave a reply denying the charges. A Charge

Sheet was issued to him for misconduct. The explanation given by him was not satisfactory. He was asked to appear for an enquiry and the first date of enquiry was fixed as 10.08.2011. On 07.07.2011 while the Branch Manager, Ravichandran had been proceeding to the Zonal Office, the petitioner who followed him in the same bus stabbed Ravichandran. The co-passengers in the bus overpowered the petitioner and handed him over to the nearby Police Station. A criminal case is pending regarding the incident. The petitioner had participated in the enquiry. Initially he had refused to cross-examine the witnesses. However, later the representative of the petitioner wanted to recall the witnesses for cross-examination. This request was declined by the Enquiry Officer. The Enquiry Officer gave his report holding that the charges against the petitioner are made out. After hearing the petitioner the Disciplinary Authority passed order imposing the punishment of dismissal from service on him. Without prejudice to the stand of the Respondent that enquiry against the petitioner was fair and proper, the Respondent is seeking leave to lead evidence on the merits of the charges by examining the witnesses. The dismissal of the petitioner is fully justified and is valid in law. The petitioner is not entitled to any relief.

5. The evidence in the case consists of oral evidence of WW1 and MWs 1 to 5 and documents marked as Ext.W1 to Ext.W56 and Ext.M1 to Ext.M41.

6. In the Claim Statement the petitioner has raised the contention that enquiry was not conducted in a fair and proper manner. This was mainly on the ground that the petitioner was not given opportunity to cross-examine the witness of the management in the enquiry proceedings. The Respondent, even while contending that the enquiry was held in a proper manner had also stated that opportunity should be given to it to examine the witnesses. According to the Management, the petitioner had declined to cross-examine the witnesses at an earlier instance and it was not a case of denial of opportunity to the petitioner. At a later stage, when request was made by the petitioner to cross-examine the witnesses, this was declined by the Enquiry Officer. It is in this background, the Respondent had examined 5 witnesses before this Tribunal to establish its case.

7. It is apparent from the very Counter Statement of the Respondent itself that the petitioner did not get sufficient opportunity to defend his case in the enquiry proceedings. This is clear from the fact that the Enquiry Officer has declined his request to cross-examine the witnesses. Even assuming that it was made at a later stage, the evidence given by the witnesses could be tested only by cross-examination and in the absence of this the enquiry proceedings could not be treated as one held in a fair and proper manner.

8. The Respondent has examined all the witnesses who were presented at the enquiry before this Tribunal

also. They were cross-examined on behalf of the petitioner. The petitioner had also given evidence before this Tribunal. All the concerned documents are marked also. Having found that the enquiry was not held in a fair and proper manner, the proceedings of enquiry need not be referred to by this Tribunal. The evidence let in before this Tribunal will be relied upon for adjudication of the dispute.

9. The points for consideration are:

- (i) Whether the action of the Management in imposing the punishment of dismissal without notice on the petitioner is legal and justified?
- (ii) To what relief, if any, the petitioner is entitled?

The Points

10. One limb of the initial charge against the petitioner is that there was shortage of one note each in two sections of Rs. 1,000/- denominations held in the closing cash balance of 02.02.2011. The shortage was detected on the morning of 03.02.2011 while MW1 was counting the two sections to disburse amount to customers. The first charge includes another case that there was shortage of 5 notes in a section of Rs. 500/- denomination sent by the petitioner to the Currency Chest on 13.12.2010. In view of the shortage it is alleged that the petitioner had removed the cash sections referred to earlier and this is the basis of the second charge.

11. The incident of shortage of two Rs. 1,000/- notes detected by MW1 on 03.11.2010 can be dealt with first. The petitioner and MW1 are the two Clerk-cum-Shroff in the branch. The practice in the branch was to assign the duty of Cashier to one of these two on rotation of three months. The period of rotation of petitioner was to come to an end by the end of January, 2011 and MW1 was to take charge as Cashier on 1st February. However, he happened to be on leave on 1st and 2nd and he took charge only on 03.02.2011. It happened that in the morning of this day itself MW4 who was the Asstt. Branch Manager of Chinna Salem branch had come to the branch for surprise cash verification. Before taking charge MW1 wanted to reconcile the cash available in the cash box in the presence of the petitioner, MW2, the Asstt. Manager and MW4, MW1 found that one piece of note is missing from each sections when he counted two sections of 1,000 rupee denominations. According to MW2, the Asstt. Manager of the Branch also two pieces were missing from each of the sections and this was brought to his notice. This is the evidence given by MW4, the Asstt. Manager an outsider who came for surprise inspection also. According to this witness, while MW1 was counting the loose cash, the customers had begun to arrive at the counter. Apart from the counted cash, there were two sections of Rs. 1,000/- from City Union Bank, one section of Rs. 1,000/- from Indian Bank and a bundle of 10 sections of Rs. 50/- denomination also. According to MW4,

in order to disburse cash to customers, MW1 had opened a section of Rs. 1,000/- of City Union Bank and found that one piece was missing. Then he opened another section of the same bank and found one piece missing from this as well.

12. There is no doubt that one piece each from two sections counted by MW1 were missing. It is also apparent from the evidence of MW1 and MW4 that these sections were of City Union Bank. The petitioner having been the person who was in-charge of the cash until the previous day he is seen made responsible for the shortage in the cash. The assumption is that he had stealthily removed one piece each from these sections, as seen from Charge No. 2.

13. Is it possible that the petitioner could have removed the notes from the sections and this is the reason for the shortage? It is clear from the evidence of MW1 that he is the one who opened the two sections. According to him he had opened these sections in the absence of the Officer as permitted by the Officer. He had admitted that the Cash Officer who verified the sections before he had taken charge also did not count the three sections. This would show that sections which reached the branch from City Union Bank were not opened or counted. This is clear from the fact that the wrapper of the City Union Bank was on these two sections. According to MW1, usually when remittance is received from City Union Bank, sections would be counted by breaking at one end. Only on assuring that the sections contain all the pieces, the wrapper will be removed and will be replaced by Indian Bank wrapper and that also only after the Officer has verified the quantity. MW1 does not remember if there was any discrepancy or tampering on the two sections before he opened them. MW2 the Asstt Manager had spoken about the manner in which the currency received from outside will be dealt with. He was the Officer-in-charge of the Cash Section at that time. He has stated that when currency is received, it will be made into sections and the Officer-in-charge will verify the number of pieces in each section. He has stated that so far as the two sections of Rs. 1,000/- denominations of City Union Bank that were opened by MW1 on the day are concerned, he did not check them since they were already checked and wrapped. Thus what is to be seen from the evidence of this witness is that the sections that were brought from City Union Bank were kept without any verification. This is evident from the version of MW4 also. She is an outsider who has come for surprise inspection and her evidence has got more weight when compared to that of other witnesses who are of the same branch. This witness has stated that the three sections including two sections of City Union Bank were covered as per the norms of RBI and there was no tampering of the wrapper of any of these sections. The evidence given by MW5, the Manager of the Bank only

strengthens the probability that the sections were in the same manner in which they were opened by MW1 on 03.02.2011. This witness has admitted that both sections in which shortage was found were packed as per the new procedure covering from all four sides and because pilferage was not possible on account of such packing they were not opened till 03.02.2011. What more evidence is required to show that the sections were not opened until 03.02.2011?

14. The vague suggestion that has been advanced on behalf of the Respondent during argument is that the notes might have been removed by the petitioner even while keeping the wrapper intact. A demonstration has been made by the Authorized Representative of the petitioner in court showing that this is absolutely impossible. The sections which are tied tightly using twains and which are wrapped on all four sides could not be opened without tampering the wrapper. The counsel for the petitioner was not able to demonstrate how it would have been possible for the petitioner to open the sections without causing any tampering, to remove the notes.

15. In fact MW3 who conducted an enquiry after the notes were found missing had found the Asstt. Branch Manager negligent. He has stated in his report marked as Ext.W20 that the Manager should have counted the cash apart from the Cashier. So far as the two sections from which notes were found missing are concerned, they were not counted at all after they reached the branch from City Union Bank. MW3 has found fault with the petitioner only for the reason that he was supposed to count with the sections on the date of receipt itself and it was since this was not done he has stated in his report that the contention of the petitioner that shortage might have occurred from City Union Bank itself could not be accepted. He stated that this misconduct of negligence is applicable to Asstt. Branch Manager also. In fact this witness has asserted that the sections received from City Union Bank were covered on all sides as per the new norms of RBI and MW2 had not counted these sections as pilferage was not possible. What MW3 has stated during his cross-examination is that the fact that the sections were not counted by Asstt. Branch Manager was taken advantage of by the petitioner to remove the notes from the sections. But the Management has not brought out how this could have been done by the petitioner. As already discussed this would have been an impossibility.

16. On 31.12.2010, the petitioner is said to have sent currency to the Currency Chest out of which there was a shortage of five pieces in a section of Rs. 500/- denomination. It is MW1 and MW5 who had gone to Kallakurichi branch to handover the remittance to be made with Cuddalore Chest. Sulankurichi branch being a small branch, the practice was to handover the amount to be remitted at the Chest to Kallakurichi branch which

is the larger branch nearby. According to MW5, the petitioner had gone to Kallakurichi branch on 04.02.2011 for collection of cash and he was informed that one section of Rs. 500/- denomination that was remitted on 31.12.2010 was short of five pieces. The reason for attributing the responsibility for the shortage on the petitioner is that he was the Cashier at that time. It is the responsibility of the Officer who is in-charge of the cash also to see that the sections are properly counted before they are wrapped. After wrapper is put on the sections, the Clerk who counted the notes as well as the Officer who verified are expected to put their signature on the wrapper. The Management had not adduced any evidence to show who had counted and made the sections or who was the Officer who verified the sections. None of the witnesses have stated that the petitioner is the one who counted them or that the wrapper contained his signature. According to MW1, before himself and MW5 proceeded to the Chest on 31.12.2010, he had assured that the sections were wrapped properly and there was no meddling or tampering. So it is to be assumed that care was taken to count the notes and wrap them as per the norms of the RBI. At which time the petitioner could have stealthily removed the note out of the section? There is no clarity in the evidence regarding this. The vague evidence given by the witnesses in this respect could not be accepted. Thus the available evidence will not show that the petitioner had removed the notes from one of the sections that were sent for remittance to the Chest and two sections that were handed over to MW1 on 03.02.2011.

17. The main basis upon which guilt is attributed upon the petitioner is the alleged confession said to have been made by the petitioner. MW1 has stated in his evidence that on 03.02.2011 after shortage was noticed, the incident was immediately brought to the notice of MW2, the Asstt. Manager and also to MW5, the Manager who was outside the branch, immediately after he came back. According to MW1, the petitioner confessed the mistake, apologized and gave a withdrawal slip of Rs. 2,000/- to make good the shortage. So far as the shortage in the Rs. 500/- section is concerned it is stated by MW1 that after the petitioner came back from Kallakurichi branch, he gave a withdrawal slip for remittance of Rs. 2,500/- which is the shortage. MW1 further stated that the petitioner admitted an embezzlement of shortfall amounts on his own volition. He stated that he was present when the petitioner made confession. MW2 also has stated that the petitioner made an admission and he was also present when he confessed and apologized to the Branch Manager. However, it could be seen from the version during cross-examination of MW2 that when the petitioner was asked about the shortage immediately after it was detected he has stated that he is not the only person responsible but MW2 himself, MW1 and also MW4 who conducted verification are responsible for the same. He

then stated that it was when himself, MW1, MW4 and MW5 were present the petitioner confessed that he has taken the money and had apologized.

18. MW4 is the only disinterested witness in the case, apart from MW3 who conducted enquiry. Though, MW2 would claim that it was in the presence of MW4 confession was made by the petitioner, MW4 does not support this case. There is no case for her that in her presence the petitioner confessed to having removed the notes from the sections. MW3 has stated during his examination that the petitioner had not admitted guilt during his interrogation. MW3 had reached the branch for enquiry on 09.02.2011, a few days after the alleged incident. If the petitioner had actually admitted guilt before the Branch Manager he would have admitted guilt before MW3 also, in the normal course.

19. There is the evidence given by MW5 also that the petitioner accepted the mistake and admitted that he was responsible for the shortage. However, the alleged admission made by the petitioner does not find a place in Ext.W21, the report dated 05.02.2011 given by MW5 to the Zonal Manager regarding the incident. What he has stated in this is that after the enquiry with both Cashiers the petitioner handed over the cash to MW1 and gave pay order of Rs. 2,000/- and on 04.02.2011 also after he came back with the section of missing pieces he remitted the shortage of the cash. There is no indication in Ext.W21 at all that any admission was made by the petitioner to the effect that he had removed the pieces from the sections and embezzled the amount.

20. The main reason for the case of confession by the petitioner seems to be the remittance made by the petitioner to make good the loss. Admittedly, he remitted Rs. 2,000/- to make good the shortage of 03.02.2011 and Rs. 2,500/- on 04.02.2011 to make good the shortage in the section that was given for remittance at the chest. The case that is advanced by the petitioner is that he had accepted responsibility for the shortage since he was the cashier earlier. According to him he did not make a confession that he had removed the notes from the sections. The admission made by MW5 reveals what was the method used by him to make the petitioner remit the amounts. He has admitted during his cross-examination that he had told the petitioner that since he was the Cashier he should accept the responsibility and the matter could be settled in the branch itself and this was why the petitioner remitted the amount. This admission by MW5 alongwith the absence of the case of admission in Ext.W21 probabalize the case that the petitioner could not have made a confession. In the wake of evidence that has come out that the wrappers from the two sections opened on 03.02.2011 were intact and that the wrapper on the section which was sent to the chest in which shortage was found was verified by MW1, it was unlikely that the petitioner would have made a confession.

21. The Authorized representative of the petitioner has referred to withdrawal slips marked as Ext.W23 (series) by which the petitioner had withdrawn money to make good the shortage. In both the slips as well as the documents showing the remittance, what is recorded is that the amount paid is for correction. It is pointed out by the Authorized Representative that this also would show that there was nothing of confession at that time and the remittance was made by the petitioner as he was instructed by the Manager. This also goes against the case of the Management that there was a confession of guilt by the petitioner.

22. Only when there is some acceptable evidence regarding the incident itself, a confession has got any value. Otherwise it is a very weak piece of evidence. The evidence given by the witnesses regarding the incident having been found also not acceptable also the case of confession is to be rejected.

23. The counsel for the Respondent has tried to refer to the past conduct of the petitioner to show that his service is not one without blemish. Earlier the petitioner seems to have been censured and his pay brought to a lower stage. As seen from Ext. M26 several misconducts which allegedly occurred earlier are referred to. The petitioner was given the above punishments on the basis of the admission made by him, as seen from Ext. M27. What the petitioner has stated in Ext. M27 is that his salary being the only income of his family, he had felt it prudent to get back into the service of the Bank than prolonging his difficulties and so he is accepting the charges. It is on the basis of this, the above punishments were imposed. This would be having some bearing on the present case only if the charges against the petitioner are established. This was brought in on behalf of the Respondent to show that there were earlier instances of his indulging in misconduct. However, in the absence of any evidence regarding the charges under consideration, the previous punishments could not be of any consequence.

24. Another fact that has been brought out are the complaints allegedly made by certain customers on 04.02.2011 making allegations against the petitioner. However, all these are on the next day of the incident and there is something odd in this, as pointed out by the Authorized Representative. These too could not be taken into account.

25. On 07.07.2011, while the Branch Manager was proceeding to the Zonal Office by bus, the petitioner had allegedly followed him in the same bus and had stabbed him and inflicted injuries upon him. This, if committed is certainly a very grievous offence revealing the criminal mentality of the petitioner. However, this is an incident that has occurred subsequently. Even if true this, incident could not influence the result of the present dispute. The

criminal case regarding the incident is now said to be pending. The Respondent has to proceed against the petitioner separately on the basis of the alleged incident. There is no necessity to combine this with the present dispute. I find that Management has failed to establish the charges against the petitioner. Consequently, there is no option but to reinstate the petitioner in service.

26. The Respondent is directed to reinstate the petitioner in service within two months with 25% back wages payable within two months which will carry interest @ 9% per annum on expiry of the prescribed period.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri K. Sekar

For the 2nd Party/
Management : MW1, Sri M. Masilamani
MW2, Sri A. Jagannathan
MW3, Sri M.K. Sundar
MW4, Sri V. Nagajothi
MW5, Sri C. Ravichandran

Documents Marked :

On the petitioner's side

| Ex.No. | Date | Description |
|--------|------------|--------------------------------------------------------------------------------------------------------------------------------|
| Ex.W1 | 17.02.2011 | Show-Cause Memo from ZO, Cuddalore addressed to K. Sekar |
| Ex.W2 | 04.03.2011 | Reply to the Show-Cause Memo addressed to the Asstt. General Manager, ZO, Cuddalore |
| Ex.W3 | 30.05.2011 | Charge Sheet from ZO, Cuddalore addressed to K. Sekar |
| Ex.W4 | 18.08.2011 | Written brief of the Presenting Officer, Sri S. Rajasekaran, Manager, ZO, Cuddalore |
| Ex.W5 | 20.09.2011 | Defence summing up on the enquiry against K. Sekar |
| Ex.W6 | 08.10.2011 | Letter from the Zonal Manager enclosing the findings of the Enquiry Officer |
| Ex.W7 | 08.10.2011 | Findings of the Enquiry Officer, Sri U.V. Ramachandran |
| Ex.W8 | 19.10.2011 | Reply by Sri K. Sekar to the Enquiry Officer's findings addressed to the Zonal Manager/ Disciplinary Authority |
| Ex.W9 | 03.11.2011 | Proposed punishment order from the Zonal Manager / Disciplinary Authority proposing the punishment of dismissal without notice |

| | | | | | |
|--------|------------|--------------------------------------------------------------------------------------------------------------------------------------------|--------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.W10 | 07.11.2011 | Reply by Sri K. Sekar to the Zonal Manager / Disciplinary Authority for the proposed punishment | Ex.W26 | Nil | Representation by K. Anjalai regarding short credit |
| Ex.W11 | 24.11.2011 | Letter from Zonal Manager / Disciplinary Authority confirming the proposed punishment | Ex.W27 | 04.02.2011 | Representation by K. Girija regarding short payment of Rs. 1,000/- on 16.12.2010 |
| Ex.W12 | 24.11.2011 | Speaking orders from the Zonal Manager / Disciplinary Authority confirming the punishment of dismissal without notice | Ex.W28 | 04.02.2011 | Representation by E. Chandrasekaran regarding short credit of Rs. 500/- |
| Ex.W13 | 20.12.2011 | Appeal submitted by Sri K. Sekar to the Appellate Authority against the punishment of dismissal without notice | Ex.W29 | 09.02.2011 | Interrogation statement obtained from Ms. V. Nagajothi, Asstt. Manager, Chinna Salem Branch |
| Ex.W14 | 25.05.2012 | Letter Ref. No. HRM/DPC/55166/2011-12 enclosing the orders of the Appellate Authority | Ex.W30 | 09.02.2011 | Interrogation statement obtained from Sri V. Ravichandran, Manager, Sulankurichi Branch |
| Ex.W15 | 20.03.2012 | Orders of the Deputy General Manager / Appellate Authority confirming the punishment of dismissal without notice | Ex.W31 | 09.02.2011 | Interrogation statement obtained from A. Jagadeesan, Asstt. Manager, Sulankurichi Branch |
| Ex.W16 | 11.08.2011 | Proceedings of the enquiry held at Kallakurichi Branch | Ex.W32 | 09.02.2011 | Interrogation statement obtained from M. Sridhar, Clerk, Sulankurichi Branch |
| Ex.W17 | 17.08.2011 | Proceedings of the enquiry held at Kallakurichi Branch | Ex.W33 | 09.02.2011 | Interrogation statement obtained from K. Sekar, Clerk, Sulankurichi Branch |
| Ex.W18 | 25.08.2011 | Covering letter from Sri U.V. Ramachandran enclosing the last page of the enquiry proceedings held on 17.08.2011 | Ex.W34 | 14.06.2012 | Petition under Section-2(A) addressed to the Asstt. Labour Commissioner (C), Puducherry |
| Ex.W19 | - | Extract of Cash Handling Manual – Pages 1.19 and 1.20 | Ex.W35 | 03.09.2012 | Counter by the Management addressed to the Asstt. Labour Commissioner, Chennai |
| Ex.W20 | 10.02.2011 | Investigating Report of the Vigilance Officer, Sri MK Sundar who conducted the investigation at the Sulankurichi Branch on 10.02.2011 | Ex.W36 | 20.09.2012 | Rejoinder submitted to the Asstt. Labour Commissioner (C), Chennai |
| Ex.W21 | 05.02.2011 | Letter from the Branch Manager, Sulankurichi Branch addressed to the Zonal Manager regarding the shortage of cash during cash verification | Ex.W37 | 25.09.2012 | Reply to the rejoinder by the Management to the Asstt. Labour Commissioner, Chennai |
| Ex.W22 | - | Key Movement Register of the branch from 10.01.2011 to 03.02.2011 | Ex.W38 | 08.06.2011 | Representation by K. Sekar addressed to the Asstt. General Manager / Disciplinary Authority seeking permission to verify documents |
| Ex.W23 | - | Two withdrawal slips of K. Sekar dated 04.02.2010 and 03.02.2011 | Ex.W39 | 11.06.2011 | Letter from Zonal Office, Cuddalore to Sri K. Sekar granting extension of time to reply |
| Ex.W24 | - | Attendance Register of the branch for the month of February 2011 | Ex.W40 | 17.06.2011 | Representation from K. Sekar to the Zonal Manager / Disciplinary Authority seeking permission to peruse the disputed three currency section and the denomination slip |
| Ex.W25 | 03.02.2011 | Extract of the cash balance book on 03.02.2011 | Ex.W41 | 22.06.2011 | Letter from Zonal Manager / Disciplinary Authority to K. Sekar informing non-availability and inability to produce the sections and slips |

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|--------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.W42 | 27.06.2011 | Reply submitted by K. Sekar to the charge sheet dated 30.05.2011 | | | not interfere in the decisions of the Enquiry Officer |
| Ex.W43 | 03.08.2011 | Letter from the Enquiry Officer to K. Sekar informing commencement of enquiry on 10.08.2011 | Ex.W55 | 17.09.2011 | Letter from the Enquiry Officer to K. Sekar instructing to submit the brief on or before 21.09.2011 |
| Ex.W44 | 06.08.2011 | Representation by K. Sekar requesting the Enquiry Officer to adjourn to a later date | Ex.W56 | 29.08.2003 | Circular issued by the bank on RBI's Clean Note Policy |
| Ex.W45 | 10.08.2011 | Letter from Zonal Manager / Disciplinary Authority informing that the next date of enquiry would be communicated by the Enquiry Officer | On the Management's side | | |
| Ex.W46 | 10.08.2011 | Letter from the Enquiry Officer informing fixing the proceedings on 11.08.2011 | Ex.No. | Date | Description |
| Ex.W47 | 13.08.2011 | Letter from the Enquiry Officer fixing the enquiry on 16.08.2011 | Ex.M1 | 10.08.2011 | Proceedings of enquiry in the charge sheet dated 30.05.2011 |
| Ex.W48 | 13.08.2011 | Letter from the Union to the Zonal Manager / Disciplinary Authority requesting direction to the Enquiry Officer to provide the opportunity to cross-examine the prosecution witnesses and to fix the enquiry on 17.08.2011 | Ex.M2 | 16.11.2011 | Proceedings of personal hearing before Disciplinary Authority. In respect of charge sheet – CO/CUD/VIGI/30/2011/12 dated 30.05.2011 |
| Ex.W49 | 13.08.2011 | Letter from the Enquiry Officer fixing the enquiry on 17.08.2011 | Ex.M3 | 31.01.2012 | Proceedings of personal hearing before Appellate Authority (In respect of charge sheet dated 30.05.2011 – order dated 24.11.2011 of D.A.) |
| Ex.W50 | 16.08.2011 | Letter from Asstt. General Manager, Zonal Office, Cuddalore to the Union informing that the Disciplinary Authority's no role on Enquiry Officer's decision | Ex.M4 | 16.10.2012 | Conciliation Failure Report by ALC (C), Puducherry |
| Ex.W51 | 19.08.2011 | Letter from the Union to the General Manager / CVO, Head Office, Chennai over the denial of opportunity to cross-examine | Ex.M5 | 07.07.2011 | Charge Sheet issued to K. Sekar—physically attacking Mr. C. Ravichandran, Branch Manager by sharp weapon while travelling in bus on duty |
| Ex.W52 | 30.08.2011 | Letter from the Enquiry Officer instructing to submit the Defence brief | Ex.M6 | 07.07.2011 | FIR – Inspector of Police, Ulundurpet |
| Ex.W53 | 03.09.2011 | Letter from the Defence Representative to the Enquiry Officer bringing to the notice the representation made to the General Manager / CVO regarding the opportunity of cross-examine the prosecution | Ex.M7 | 08.07.2011 | News item published in Dina Thanthi on 08.07.2011 in respect of the above stabbing incident |
| | | | Ex.M8 | 08.07.2011 | News report in Hindu – C. Ravichandran, Branch Manager inflicted with stab injury |
| | | | Ex.M9 | 07.07.2011 | Report on the stabbing incident by PV Ramachandran, Chief Manager, ZO, Cuddalore |
| | | | Ex.M10 | 07.07.2011 | Statement of Ravichandran, Branch Manager on the stabbing incident in bus |
| | | | Ex.M11 | 07.07.2011 | Report of Azhagarasan of Ulundurpet in respect of the stabbing incident |
| | | | Ex.M12 | 07.07.2011 | Wound Certificate issued by Casualty Department, Government Hospital, Ulundurpet of Mr. Ravichandran |
| | | | Ex.M13 | 09.01.2008 | Complaint of K. Srinivasan, Customer against K. Sekar, CI/Sh., Pudupattu Branch |
| Ex.W54 | 07.09.2011 | Letter from the Asstt. General Manager, HO, Vigilance Department informing the Defence Representative that the General Manager / CVO would | Ex.M14 | 18.01.2008 | Representation of employees of Pudupattu branch against K. Sekar regarding his drunken behavior etc. |

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|--------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.M15 | 14.01.2008 | Complaint from Branch Manager, Pudupattu, against K. Sekar leaving office branch early | | | the bank, drunkenness, or riotous or disorderly, or indecent behavior in the premises of the bank, willful insubordination of refusal of reasonable orders of superior, incurring debts etc. |
| Ex.M16 | 22.01.2008 | Complaint of B. Sivakumar, Appraiser of Pudupattu branch against K. Sekar regarding cheating him for Rs. 380/- with two enclosures | Ex.M27 | 19.03.2008 | Explanation of petitioner towards charge sheet dated 26.02.2008 |
| Ex.M17 | 22.01.2009 | Letter from N. Moorthi, Assistant Branch Manager, Sankarapuram, addressed to Investigation Officer regarding shortage in cash remittance in Pudupattu Branch | Ex.M28 | 20.03.2008 | Proposing punishment of censure and bringing down to lower state in scale of pay by one stage without cumulative effect in view of voluntary admission of guilt – personal hearing (In respect of show cause memo dated 26.02.2008) |
| Ex.M18 | 22.01.2008 | Letter from K. Sumathi, facilitator of Samnguppoo, S.H.G. Magalir Mandram, Pudupattu SB A/c No. 5490 – complaining against K. Sekar | Ex.M29 | 25.03.2008 | Proceedings of personal hearing on 25.03.2008 in respect of Show Cause Memo dated 26.03.2008 |
| Ex.M19 | 22.01.2008 | Letter from S. Rajeshwari, Om Sakthi Mahalir Membattu Mandram in Pudupattu – SB A/c No. 2083 against K. Sekar | Ex.M30 | 26.03.2008 | Imposing punishment of censure in respect of charges 1,2,3,5 and 9 and “Brought down to lower stage in the scale of pay by one stage without cumulative effect” in respect of charges 4,6,7 & 8 |
| Ex.M20 | 22.01.2008 | Letter from N. Ravi, Krishna Agents, complaining against K. Sekar regarding misconduct of his cash handling etc. | Ex.M31 | 04.07.2011 | Complaint of K. Jayaram, Account holder in Sulankurichi Branch against K. Sekar – misappropriation of Rs. 1,500/- |
| Ex.M21 | 22.01.2008 | Letter from N. Ravi, SR No., 27912, Indian Bank, Pudupattu Branch Cl/sh. – complaining about K. Sekar – drunken behavior, cash shortages, cheating to customers etc. | Ex.M32 | 15.07.2011 | Investigation report by ZO, Cuddalore to Zonal Manager, Cuddalore |
| Ex.M22 | 22.01.2008 | Letter from PM Udaya Sooriyan, SB Account holder in Pudupattu Branch – complaining against K. Sekar | Ex.M33 | 26.07.2011 | Charge Sheet issued to K. Sekar |
| Ex.M23 | 03.12.2007 | Letter from Branch Manager, Pudupattu Branch, addressed to AGM, Circle Office, Cuddalore – report on the shortage of cash on 30.11.2007 in Sekar’s cash counter | Ex.M34 | 08.08.2011 | Reply of K. Sekar to the charge sheet dated 26.07.2011 |
| Ex.M24 | 13.12.2007 | Letter from Branch Manager, Pudupattu to AGM – CO, Cuddalore on cash shortage in closing of cash balance on 13.12.2007 | Ex.M35 | 02.07.2011 | Pay-in-Slip – crediting Rs. 32,500/- in the account of Jayaram towards his jewel loan account by his wife |
| Ex.M25 | 21.01.2008 | Letter from Vigilance Cell, C.O., Cuddalore addressed to K. Sekar placing K. Sekar on suspension pending further investigation | Ex.M36 | 15.07.2011 | Interrogation done with regard to the complaint received from K. Jayaram, Customer against K. Sekar |
| Ex.M26 | 26.02.2008 | Show Cause Notice issued to petitioner listing of 9 incidents of various acts of misconduct i.e. unseemly/unsatisfactory behavior while on duty towards officers of | Ex.M37 | 02.08.2011 | Representation from Jayaram to Zonal Office, Indian Bank, Cuddalore |
| | | | Ex.M38 | 11.07.2011 | Proceedings of enquiry on the complaint of K. Jayaram |
| | | | Ex.M39 | 16.09.2011 | Proceedings of enquiry in respect of charge sheet dated 26.07.2011 |
| | | | Ex.M40 | 16.09.2011 | Proceedings of enquiry in respect of charge sheet dated 26.07.2011 |
| | | | Ex.M41 | 16.09.2011 | Proceedings of enquiry in respect of charge sheet dated 26.07.2011 |

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2713.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 74/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-12012/42/2013-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2713.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 09/10/2014.

[No. L-12012/42/2013-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 24th September, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer
Industrial Dispute No. 74/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN

Sri A. Rajendran : 1st Party/Petitioner

AND

The Zonal Manager : 2nd Party/Respondent
Indian Bank, Central Office
359, Dr. Nanjappa Road,
Coimbatore -641018

Appearance:

For the 1st Party/ : Sri J. Suresh, Authorized
Petitioner Representative

For the 2nd Party/ : M/s T.S. Gopalan & Co.,
Management Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/42/2013-IR (B.II) dated 25.06.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of Indian Bank Management in respect of imposing punishment of dismissal without notice on the petitioner Sri Rajendran, an employee of the Indian Bank, Valparai Branch is justified or not? What relief the workman is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID No. 74/2013 and issued notices to both sides. The petitioner has entered appearance through Authorized Representative and the Respondent through counsel and filed their Claim and Counter Statement respectively. The petitioner has filed rejoinder after the Counter Statement was filed.

3. The averments in Claim Statement filed by the petitioner in brief are these:

The petitioner had entered the service of the Respondent Bank as a Sub-Staff and was subsequently promoted as Clerk. He was transferred to Valparai Branch of the Respondent Bank in the year 2005. He was discharging his duties faithfully and sincerely. While working in Valparai Branch, the petitioner was placed under suspension on 06.10.2009. A Charge Sheet dated 12.10.2009 was issued to the petitioner. It was alleged in the Charge Sheet that the petitioner had misappropriated an amount aggregating to Rs. 13,000/- by removing pieces of notes from different sections of Rs. 500/- denomination. Another charge against the petitioner is that on 26.04.2006 he had received illegal gratification of Rs. 100/- from a customer of the branch. The third allegation against the petitioner is that while holding cash safe keys of the branch, he had left the station on 18.04.2009 without handing over the keys to the branch and he failed to report for duty on time in 19.04.2009 and reported only by about 12.40 PM. The petitioner had submitted a reply to the Charge Memo denying the allegations. He is not involved in the misappropriation of the money of the bank. The petitioner did not receive any illegal gratification. The petitioner had obtained permission from the Branch Manager to leave the station for attending death ceremony of a relative. Due to mechanical failure of the vehicle in which he was travelling, he could report for duty at 1230 PM only. The Respondent who was not satisfied with the reply had ordered departmental enquiry against the petitioner. The Enquiry Officer submitted enquiry report finding the petitioner guilty of all the three charges. The Disciplinary Authority imposed the punishment of “Dismissal Without Notice” on the petitioner by order dated 30.08.2010. The Appellate Authority dismissed the appeal preferred by the petitioner. The dispute is raised accordingly. The allegations made against the petitioner are without any basis. There is no justification for imposing the punishment of dismissal on the petitioner. An order may

be passed directing the Respondent to reinstate the petitioner in service and to pay back wages and other allowances.

4. The Respondent has filed Counter Statement contending as follows:

The petitioner was working as Chief Cashier in Valparai Branch and was the joint custodian of the Safe Keys. On 18.04.2009, the petitioner informed the Branch Manager that he will be late by 10 minutes on the next day. As it was late in the evening, no other staff was available to entrust the keys. The petitioner left the branch with the keys. On 19.04.2009 the petitioner did not reach the branch even by 10.00 AM so Balasubramaniam, another Clerk was directed to attend payment counter with the cash available with the receiving cashier. The petitioner reached only by 12.40 PM. Though the Branch Manager instructed the petitioner to handover the key to Balasubramaniam, he was reluctant to do so. It was only after the Manager insisted he handed over the key to Balasubramaniam. On 20.04.2009 by 09.15 AM the petitioner telephoned to the Branch Manager and asked him to direct the Asstt Branch Manager to see that the keys are handed over to him. However, the Branch manager instructed him to work in some other section and asked Balasubramaniam to continue in cash. By 11.30 AM on that day Balasubramaniam noticed shortage of 6 notes in a sealed section of Rs. 500/- denomination, when he opened the section and counted it, to make payment to a customer. He reported the matter to the Officer who had initialed the slip on the section. When another section of Rs. 500/- denomination was opened and counted Balasubramaniam encountered shortage of 8 notes. The Branch Manager who came to the cash counter, opened the next section of Rs. 500/- denomination in the presence of Balasubramaniam and another and found shortage of 4 notes. The remaining section of Rs. 500/- denomination in the Till Cash Box was set aside and counted in the evening and there was shortage of 8 pieces in this section also. Balasubramaniam, the petitioner and Kaliappan, another Clerk refused to make good the loss. The matter was reported to the Circle Office. An investigation was conducted as ordered by the Circle Office. The Vigilance Department also conducted investigation. He came to the conclusion that shortage had occurred in the sections due to removal of notes by the petitioner. It was revealed during investigation that the petitioner had concealed the fact that he had gone to Perur to attend the 5th day death ceremony of his wife to be held on 19.04.2009. He had left without informing the Branch Manager to avoid giving cash keys to others though he knew that he will be late in reaching the office on the day. It was also revealed during investigation that the petitioner had taken bribe of Rs. 100/- from a customer on 26.04.2006 and the customer had given a complaint. The petitioner was also known to have taken a Rs. 500/- note on an earlier

occasion and he had returned it to the Manager later. A sealed section of note can be opened by applying steam or hot stainless lunch box. After removing some pieces, it can be sealed by the same adhesive. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and reiterating his case in the Claim Statement.

6. The evidence in the case consists of oral evidence of the petitioner examined as WW1 and documents marked as Ext.W1 to Ext.W19 and Ext.M1 to Ext.M13.

7. The points for consideration are:

- (i) Whether the action of the management in dismissing the petitioner from its service is justified?
- (ii) What, if any, is the relief to which the petitioner is entitled?

The Points

8. The petitioner was working as payment cashier at Valparai Branch of the Respondent Bank. At the time of the alleged incident he was assigned the duty of Payment Cashier for a period of three months from 01.02.2009 to 30.04.2009. the Respondent has alleged that while working as such he had removed pieces of notes from four sections of Rs. 500/- denomination amounting to 26 pieces in total and had thus misappropriated Rs. 13,000/-. Another allegation is that the petitioner reported for duty on 19.04.2009 by about 12.40 PM only even though he was holding the Cash Safe Keys in his capacity as Payment Cashier. There is also a charge that the petitioner had received illegal gratification of Rs. 100/- from a customer on 26.04.2006.

9. A Charge Memo was issued to the petitioner after he was placed under suspension and a departmental enquiry was conducted. The petitioner had fully participated in the enquiry proceedings. Before the Enquiry Officer, two Officers who had conducted investigation, Balasubramaniam, the Clerk who had started to do the work of the petitioner consequent to his coming late on 19.04.2009, the then Branch Manager and two others were examined. The petitioner and another witness was examined on the side of the petitioner. The Enquiry Officer had submitted report finding that all the three charges against the petitioner are proved. The Enquiry Officer has entered a finding of guilt on the petitioner regarding the charge of misappropriation on the reasoning that only the petitioner had dire need for money and opportunity for committing theft from the concerned sections. The Enquiry Officer has taken a note of the fact that the petitioner was drawing a very small amount as salary and he was very much in need of money and had come to the conclusion that he must have removed the notes. The Enquiry Officer has accepted the

case of the management that the petitioner was reluctant to part with the keys and had made much effort to retain the keys with him even though he was leaving the station. Regarding the second charge of accepting bribe of Rs. 100/- which had allegedly taken place 3 years prior to the charge sheet also the Enquiry Officer has entered a finding against the petitioner even though the person who allegedly gave the bribe herself has come and stated before him as PW2 that she did not pay any bribe to the petitioner. Regarding the third charge of reaching the office late on 19.04.2009, the Enquiry Officer, apart from other evidence, relied upon the evidence given by the petitioner also to enter a finding that he came late without informing the Manager and without handing over the keys to someone else. In arriving at the finding on the 1st charge, the Enquiry Officer has mainly relied upon the report of Investigation Officer who had resorted to a process of elimination. The Enquiry Officer has, in his report, referred to the version given by the witnesses and also referred to the fact of counting of the notes in the currency chest to find out any shortage in the section from the concerned branch and on analyzing them had come to the conclusion that any other staff in the bank could not have committed the act and it is only the petitioner who could have done it.

10. It is an admitted fact that the petitioner came to the branch late on 19.04.2009 even though he was holding the Cash Key on that day. Consequent to his late coming, Balasubramaniam, examined as MW6 was asked to take the position of the petitioner. When the petitioner reached the bank by 1240 PM, he was instructed to hand over the Cash Key to MW6. The petitioner had been attending to some other work on the day. On the next day also MW6 continued to hold the key. The shortage of pieces of notes was noticed by MW6 while he was counting sections of notes. Initially, he had opened and counted a section of Rs. 500/- denomination which was counted and packed by Kaliappan, another staff. He had immediately informed the Assistant Manager about the same. Subsequently, he opened another section of Rs. 500/- denomination obtained from the currency chest and shortage was noticed in this section also. The Assistant Branch Manager was informed and he came to the counter and he himself opened one more section of Rs. 500/- denomination and this was also found to be short of certain pieces. One more section of Rs. 500/- denomination which was in the till cash was kept aside. This section was opened and counted by the Manager in the presence of staff including the petitioner and this was also found to be short of certain pieces.

11. What is the evidence given by the witnesses regarding the shortage of notes that were handled by MW6? MW1 who had investigated in the matter had stated during his examination that he assumed that the section of notes prepared by Kaliappan must have been

packed only after it was counted by the Officer also since that is the normal practice. However, it has come out during the cross-examination of MW1 itself that it is unlikely that the notes were counted by the Officer. According to MW1, during interrogation the Branch Manager has told him that whenever the Sub-Staff is there to assist Kaliappan he will be counting the notes at the counter itself and packing also will be done at the counter and then only it will be sent to the Officer for signature. The Manager had also told him that only after the incident on hand they started counting all sections in front of the Officers before they were packed. Thus it is clear from even the evidence of MW1 that there was no practice of counting the notes in the presence of the Officer in spite of the instructions of the Reserve Bank. The Sub-Staff who was questioned by MW1 also had informed him that receipt cash will be counted at the Receipt Cash Counter itself and it is only the closed packed that is taken to the Officer for signature. MW1 did not ascertain during the investigation whether the section of notes packed by Kaliappan was tampered in any way at the time of opening. The witness has also stated that there are counting machines at the branch and the counting at the branch might have been done using the machine only. According to MW1, he did not suspect Kaliappan for the shortage in the section that was packed by him since shortage was found out in three sections received from the Currency Chest also. It could be seen from MW1's evidence that he has merely placed suspicion on the petitioner. According to him, there were strong circumstances for putting suspicion on the petitioner. He did not fix responsibility for the incident on the petitioner.

12. The statement of interrogation of the concerned Sub-Staff who used to help in counting and packing also is available in the enquiry proceedings. He has stated to the Investigation Officer that only after the incident in question, they started counting of individual pieces of Currency Chest sections. There is also the statement of Branch Manager given to the Investigating officer that normally when they receive cash from Currency Chest, only the number of sections in the bundles were counted by the Cashier in the presence of Asstt. Manager and the concerned Cashier and it was only after the incident, they have started counting individual pieces.

13. The Enquiry Officer has referred to the evidence given by the Manager that the concerned sections were found loose on account of the removal of the notes. It is pointed by the Authorized Representative that there was no such case earlier and it was only during evidence such a case was put forth. In fact he has stated during his evidence that the sections opened by him were intact. MW6 who had handled the sections on 20.04.2009 on which day shortage was noticed also had given a version to this effect. What he has stated during the cross-examination is that all the sections were packed with

plus band and officials had signed on the packets also and those were intact also. This would go to show that at the time when this witness handled the section on 24.04.2009 the sections were intact. That means the sections were not tampered with at all. If any of the sections were actually loose, MW6 would have noticed it, he being the one who had opened two of the four sections wherein shortage was noticed.

14. The mode of packing the sections introduced by the Reserve Bank is with the intention that nobody could open it and take out notes from the sections. It has been pointed by the Authorized Representative that adhesive used for packing the sections could be used only once. In that case if the packed section is opened it would not be possible to replace the wrapper without causing any damage to the same. Though there is no such case during the enquiry proceedings, what is stated in the Counter Statement is that if heat is applied to the portion of the adhesive which according to the Counter Statement could have been done using a lunch box with hot contents, the wrapper could have been opened without any damage and could have been replaced also. However, it was not shown by the Management that before MW6 or MW2, the Manager, the petitioner opened the sections. It seems to be practically impossible to remove the wrapper of the section without causing any damage and replace the same. If it was possible a demonstration to that effect could have been done on behalf of the Management. But this was not done.

15. It is clear from the evidence that one of the sections in which shortage was noticed was packed by the Clerk by name Kaliappan and that also most probably not in the presence of the Officer concerned. It is also clear from the evidence that the branch was not in the habit of counting individual pieces in the sections that were received from the Currency Chest. This is the evidence given by the Manager. They will be counting only the number of sections in the presence of the Officer. Since the sections are received from the Chest it is presumed that they are counted and packed properly and there is no possibility of any shortage. The counsel for the Respondent has been referring to the report of MW1 to the effect that he has verified the sections in the Currency Chest to find out if there was any pilferage. He has reported that he did not notice any shortage on verification. However, as pointed out by the Authorized Representative only at random, sections were counted by MW1 and not all the sections. This certainly is not an effective measure to find out if shortage has occurred at the Currency Chest itself.

16. The Authorized Representative has referred to the representation by the Federation of Indian Bank Employees Union (Page-143 of the Petitioner's Typed set) wherein it is pointed out that on counting notes

through note counting machines some discrepancy had occurred and this had come to light on physical counting. The Secretary General of the Federation had requested to take necessary steps in this respect. The Authorized Representative has referred to the Investigation Report given by MW1 also in this respect. The report (Page-121 of Petitioner's typed set) refers to an incident where shortfall was noticed in the amount that was loaded in the ATM which must have counted through counting machines. These facts were pointed out to show that there were instances of malfunctioning of the counting machines.

17. It could be seen from the evidence that immediately after the shortage was noticed, suspicious eye was drawn not only against the petitioner but all those who had handled the cash. MW2, the Manager had stated during his examination that on his discussing the matter with the Circle Office he was instructed to ask MW6 who was in cash on the day on which shortage was noticed to make good the loss. When MW6 refused, the petitioner was asked to do so. When he also refused Kaliappan who had counted one of the sections in which shortage was noticed was asked to take the responsibility of the shortage found in the particular section prepared by him. When all these attempts failed he had obtained a letter from MW6 regarding the shortage, debited the necessary register and had tallied the cash as instructed by the Circle Office. I have referred to this incident only to show that initially all those including the petitioner who had handled cash were asked to make good the loss and not the petitioner alone.

18. In spite of the fact that there is no evidence to show that the sections in the Till Cash that were under the custody of the petitioner were tampered with, guilt has been attributed on the petitioner. This was done based on certain circumstances which according to the Management point to the petitioner as the guilty one. One such aspect that was put forth by the Management is that the petitioner was reluctant to handover the key even though he knew that he will be late on 19.04.2009. MW2 has also given evidence that the Assistant Manager had called him on the morning of 20.04.2009 and had told him that the petitioner had telephoned to him requesting that the safe keys should be returned to him. For these reasons and also because the petitioner was the one who was in custody of the concerned sections of notes for some days and he was having the opportunity to remove the notes from the sections it was assumed that he is responsible for the shortage. These are in fact only circumstances which point to the petitioner as the person who might have done the act. However, these are merely circumstances and could not replace proof. There is absolutely no evidence to come to the conclusion that the petitioner is the person responsible for the shortage of the notes. In fact it is in the absence of convincing

evidence, the Enquiry Officer has relied upon the elimination process resorted to by MW1 and concluded that the petitioner must have been the person responsible for the incident. There is no legal basis for arriving at such conclusion.

19. It has been brought out that the proceedings had been initiated against the petitioner on previous occasions. However, it has come out that all these were for unauthorized absence from duty. MW2 has admitted during his cross-examination that there was no previous instance of misappropriation of cash by the petitioner. So the Management could not justify the charge based on any previous incident also. There is no basis for the finding arrived at by the Enquiry Officer on Charge No. 1. The finding on the charge is to be set aside.

20. There is also a charge against the petitioner that on 26.04.2006 he demanded and received illegal gratification of Rs. 100/- from one Kamalam, a customer of the branch. To prove this incident, MW3 and MW5 were relied upon. MW3 who had worked as Assistant Manager at Valparai Branch earlier has stated that the petitioner had taken bribe from Kamalam. He has further stated that the petitioner had admitted his mistake and had assured that he would not repeat the mistake. MW5 is also a previous Assistant Branch Manager at Valparai Branch. He has stated that a report was given from the branch to the Circle Office regarding the incident of the petitioner taking bribe. A complaint said to have been given by Kamalam regarding the incident also was produced in the enquiry proceedings. The case of the petitioner himself is that on account of some emergency the Kamalam who had been to the bank had obtained a loan of Rs. 100/- from him and she has returned this amount to him when her pension amount was credited to her account. Kamalam, who allegedly paid bribe herself has been examined as DW2 on behalf of the petitioner herein, in the enquiry proceedings. She has denied to have paid any bribe to the petitioner. She has supported the case of the petitioner that she was only repaying the loan that was taken from the petitioner. When the person concerned herself has come and stated that she has not given any bribe and the petitioner has not accepted any bribe there is no necessity to disbelieve this version.

21. More than the fact that DW2 supports the case of the petitioner, the fact that no action has been taken by the Management against the petitioner until 06.10.2009 regarding the incident that had allegedly occurred on 26.04.2006 weakens the case of the Management. In Ext.W3, the Suspension Order dated 06.10.2009 it is stated that the petitioner had taken bribe of Rs. 100/- from Kamalam on 26.04.2006. It is for this reason the petitioner was suspended from service by Ext.W3-Suspension Order. The suspension is much after 20.04.2009 on which date shortage was noticed in Till Cash yet. There is no reference to this

incident in Ext.W3. By Ext.W4 the suspension was extended on the basis of the alleged misappropriation of the Rs. 13,000/- by removal of notes from the sections also. It is clear from the evidence that no action has been taken by the Management based on the alleged complaint that was received from Kamalam. The incident seems to have been dropped by the Management. It must have been either for the reason that they were aware that the petitioner had not committed the misconduct of receiving bribe or because they have decided to drop the issue for the reason not known. In either case, there was no reason for the Management to take up the matter that had allegedly occurred three years earlier and furnish a charge sheet on the petitioner regarding that also. Probably the Management might have been under the impression that this will strengthen the other charges. There is no justification for the finding of the Enquiry Officer that the charge of acceptance of bribe by the petitioner is proved.

22. The last charge against the petitioner is that while holding the cash safe keys of the branch, the petitioner had proceeded out of station on 18.04.2009 without first handing over the keys and he had not reported for duty in time on 19.04.2009 but reached office only by 12.40 PM on 19.04.2009 and this uninformed abstention from duty while holding the keys resulted in detriment to the customer service rendered at the branch. Admittedly, the petitioner was holding the keys of the cash safe on 18.04.2009. Even though the keys were with him and he had reached the Bank on 19.04.2009 only by 12.40 PM, admittedly, the argument that is advanced on behalf of the petitioner is that it is not uninformed abstention from duty. According to the Authorized Representative, the permission was obtained from the Manager of the Bank. It has been argued by him that such permission having been obtained there is no basis for the charge at all.

23. MW2, the Branch Manager has stated during his examination that the petitioner had informed him on 18.04.2009 that he would be coming late by 10 minutes on the next day i.e. 19.04.2009. According to MW2, by the time the petitioner gave this information it was 07.30 PM and all other staff had already left and the petitioner was also about to leave. According to him normally the petitioner would be reaching the bank at 10.05 in the morning. So he had not treated it as a serious issue. Even then he had told the petitioner that because 19.04.2009 was a Sunday (Sunday was working day for the branch) there would be heavy work and had instructed him to come by 10.10 AM. The petitioner had failed to reach in time. Even as seen from the evidence of MW2, at 10.00 AM on 19.04.2009 the petitioner had telephoned him and had told him that he would be reaching by 10.30 AM. So he had asked the Receipt Cashier to manage the cash counter till the petitioner reached. By 11.15 or 11.30 AM the petitioner

had called again and had informed that he was getting delayed since the vehicle had broken down. MW6 having found that there is a crowd of customers had agreed to take the cash from the Receipt Cashier. The petitioner reached the branch only at 12.40 PM. MW2 had instructed the petitioner to handover the key to MW6. According to him the petitioner had not handed over the key immediately and it was only on further instruction that he handed over the key to MW6.

24. It has been argued on behalf of the petitioner that the petitioner having informed the previous day itself that he would be coming late and having informed his inability to reach even at 10.10 AM due to reasons beyond his control, it was not a case of uninformed abstention.

25. No doubt the petitioner had informed the Branch Manager that he would be late by 10 minutes. However, what he has not informed is that he would be leaving the station. It has come out in evidence that the petitioner had left the station and had travelled upto Perur 120 kms away from Valparai branch to attend the death ceremony of his wife. It is clear from the evidence of MW2 that he had taken the information given by the petitioner only as a delay of 10 minutes in reaching the office. He did not take it seriously as the petitioner was in the habit of reaching the office by 10.00 or 10.05 only in the morning. It has been argued on behalf of the petitioner that MW2 was given information that the petitioner would be leaving the station. But this does not seem to be true when the circumstances are taken into account. What the petitioner has stated during his examination as DW1 is that he had told MW2 that his wife's death ceremony is to held at Perur on the next day and he would be coming late by 10 minutes. According to him, he had asked for permission on account of this. This case of the petitioner is false as seen from the very explanation given by him to the Charge Sheet and marked as Ext.W2. In Ext.W2 he had referred to his dead wife as a "close relative". If he did not want to disclose even in Ext.W2 that the person who died was his wife, it is unlikely he had informed MW2 that he was leaving the station to attend the ceremony in connection with the death of his wife. Probably, there was sufficient reason for the petitioner to keep the fact concealed. He had been separated from his wife for several years and probably did not want to disclose the news of death of his wife to his colleagues. Probably, that may be why he decided to come back and attend the office on the same day, taking so much effort. If MW2 had any hint that the petitioner was leaving the station and travelling to a destination 120 miles away he would not have taken the chance of retaining the keys of the cash safe with the petitioner. The petitioner certainly was duty bound to entrust the keys to the Manager in advance to see that the work on the next day will not suffer on account of the delay in his reaching the office. Merely because he had informed MW2 during his journey about the delay, his act

could not be justified. If he had told the truth to MW2 and that also in advance or if he had at least informed MW2 that he would be leaving the station, MW2 could have made alternate arrangement regarding custody of the keys. So certainly the petitioner was at fault in not giving information to MW2 before he proceeded out of station and reaching the office at 12.40 PM only.

26. The misconduct of uninformed abstention from duty is a minor misconduct and is not liable to be visited with the punishment of discharge from service. Some minor punishment would have been sufficient for the misconduct. Now the petitioner who had been without work after he was discharged from service is sufficiently punished for the said misconduct.

27. Charges 1 and 2 having been found not established, the petitioner is entitled to be reinstated in service.

28. The respondent is directed to reinstate the petitioner in service within two months with 50% back wages which would carry interest @ 9% per annum if not paid within two months.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 24th September, 2014)

K. P. PRASANNA KUMARI, Presiding Officer

Appearance:

For the 1st Party/ : WW1, Sri A. Rajendran
Petitioner

For the 2nd Party/ : None
Management

Documents Marked :

On the petitioner's side

| Ex.No. | Date | Description |
|--------|--------------------------|-----------------------------------------------------------------------------------------|
| Ex.W1 | 12.10.2009 | Charge Sheet No. CO:CBE:VG:288:2009-10 issued to Sri A. Rajendran |
| Ex.W2 | 10.11.2009 | Reply to the Charge Sheet |
| Ex.W3 | 06.10.2009 | Letter No. CO:CBE:VG:285:2009-10 suspending Sri A. Rajendran |
| Ex.W4 | 12.10.2009 | Letter No. CO:CBE:VG:CS:286:2009-10 |
| Ex.W5 | 18.03.2010 19.03.2010 | Proceedings of the departmental enquiry against Sri A. Rajendran |
| Ex.W6 | 20.01.2010 | List of management exhibits alongwith copies of management exhibits and defence exhibit |
| Ex.W7 | 12.04.2010 | Written brief of Presenting Officer |

| | | | | | |
|---------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.W8 | 08.05.2010 | Defence summing up by the defense representative alongwith enclosure | Ex.M5 | 24.03.2000 | Letter from Bank to Petitioner cautioning to avoid unauthorized absence in future (Ref. ZO/PRNL/SS-42/99-2000) |
| Ex.W9 | 09.06.2010 | Letter from CO/Coimbatore CO:CBE:VG:597:2009-10 enclosing the findings of the Enquiry Officer | Ex.M6 | 27.03.2001 | Letter from Bank to Petitioner cautioning and advising not to resort to absent without obtaining leave – 122 days unauthorized absence (Ref. RO/CEBE/DP-2001/45) |
| Ex.W10 | 28.06.2010 | Comments on Enquiry Officer's findings | Ex.M7 | 07.01.2005 | Awarding punishment of stoppage of one increment with cumulative effect and proven charge in respect of Charge No. 1 and 2, warning in respect of Charge No. 3 and recording adverse remarks in Service register in respect of proven Charge No. 4 – in respect of charge sheet issued to Petitioner under reference CO/CBE/DP/2003-61 dated 10.10.2003 |
| Ex.W11 | 16.08.2010 | Second Show Cause Notice issued by AGM/Disciplinary Authority CO:CBE:VG:529:2009-10 | Ex.M8 | 25.02.2008 | Orders of AGM/Disciplinary Authority in respect of Charge Sheet CO/CBE/VG/77/2007-2008 dated 25.02.2008 regarding issue of Cheque No. 487829 dated 12.07.2003 returned for want of sufficient funds – punishment recording on adverse remarks in his Service Register |
| Ex.W12 | 24.08.2010 | Reply to the Second Show Cause Notice | Ex.M9 | 25.02.2008 | Orders of AGM/Disciplinary Authority in respect of Charge Sheet CO/CBE/VG/78-2007-2008 dated 28.04.2007 in respect of issuing Cheque No. 499707 dated 21.08.2003 for Rs. 22,000/- - - returned for want of sufficient funds – punishment – making entry of adverse remarks in Service Register. |
| Ex.W13 | 30.08.2010 | Speaking orders of Assistant General Manager/Disciplinary Authority, Circle Office, Coimbatore | Ex.M10 | 25.02.2008 | In respect of Charge Sheet CO-CBE-VG-75A-2007-08 dated 25.02.2008 by AGM/DA awarding punishment of recording adverse remarks in Service Register |
| Ex.W14 | 30.09.2010 | Appeal submitted by Sri A. Rajendran to Deputy General Manager/Appellate Authority | Ex.M11 | 05.03.2008 | Order of AGM/DA in respect of Charge Sheet CO/CBE/VG/76A-2007-08 dated 23.05.2007 awarding punishment to bring down in lower stage in the scale of pay in 2 stages with cumulative effect |
| Ex.W15 | 25.06.2011 | Orders of the Deputy General Manager/Appellate Authority | | | |
| Ex.W16 | 28.10.2011 | Petition under 2(A) of ID Act | | | |
| Ex.W17 | 31.01.2012 | Counter submitted by the management for the ID | | | |
| Ex.W18 | 26.05.2012 | Rejoinder by Sri A. Rajendran | | | |
| Ex.W19 | 10.08.2012 | Reply to the rejoinder | | | |
| On the Management's side | | | | | |
| Ex.No. | Date | Description | | | |
| Ex.M1 | 26.08.2010 | Proceedings of personal hearing before the Disciplinary Authority | | | |
| Ex.M2 | 07.06.2011 | Proceedings of personal hearing before the Appellate Authority | | | |
| Ex.M3 | 31.03.1994 | Letter from the Respondent to Petitioner awarding punishment of stoppage of one increment without cumulative effect in respect of Disciplinary Proceedings initiated against the petitioner (Ref. ZO/VG/108/94) | | | |
| Ex.M4 | 07.01.1998 | Letter from Bank to Petitioner advising to be more cautious in future to avoid frequent unauthorized absence (Ref. ZO/CBE/BPS/98/25 dated 07.01.1998) | | | |

- Ex.M12 08.05.2008 Order of Appellate Authority in respect of the above charge sheet – modifying the punishment as bringing down in lower stage in the scale of pay by one stage.
- Ex.M13 25.07.2008 In respect of Charge Sheet – CO/CBE/VG/36/2009-10 dated 27.04.2009 – in respect of unauthorized absence during various period from 05.02.2013 to 24.07.2004 etc. (Ref. DP Proceedings in respect of charge sheet dated 25.07.2009 was kept in abeyance in view of his dismissal from service vide order dated 30.08.2010)

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2714.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 150/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-12011/74/2004-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2714.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 150/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 09/10/2014.

[No. L-12011/74/2004-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 10th day September, 2014

INDUSTRIAL DISPUTE No. 150/2004

Between :

The General Secretary,
Bank of Baroda Staff Union, Andhra Pradesh,
C/o Bank of Baroda, 155, Sikh Road,
Opp. AWHO Colony, Sector-C, Bowenpally,
Secunderabad – 500009.Petitioner

AND

The Asst. General Manager,
Bank of Baroda,
Regional Office, Hyderabad Business Centre,
Old MLA Quarters Road, Basheerbagh,
Hyderabad – 500 029.Respondent

Appearances:

For the Petitioner : M/s. K. Rama Reddy &
Y. Ranjit Reddy, Advocates

For the Respondent : M/s. K. Srinivasa Murthy,
V. Umadevi, Adibabu,
Praveen & Sanjay, Advocates

AWARD

Vide order No. L-12011/74/2004-IR(B-II) dated 18.8.2004 of Government of India, Ministry of Labour and Employment, New Delhi a reference is made to this Tribunal calling upon it to give its award on the question,

“Whether the action of the Management of the Bank of Baroda, Regional Office, Andhra Pradesh by ordering of recovery of amount in respect of the workmen (S/Sh. G. Ch. Demudu, Ch. Harinath, Kondala Rao, K. Appa Rao, P. V. Ramana, D.V.L.N. Murthy) on the ground of excess reimbursement / double expenses is legal and justified? If not, what relief are the workmen concerned entitled to?”

On receiving the reference, both the Petitioner union and the Respondent Management were notified of the same. Both of them appeared before this Tribunal and engaged their respective counsels with the consent of each other and leave of the Tribunal.

2. The Petitioner union filed their claim statement with the averments in brief as follows:-

The present petition is in respect of illegal deduction of certain amounts under the guise of “wrong payments” from the salary of three members of the Petitioner union working in various branches / offices the details of which are given here under:

| Sl. No. | Name of the Employee/ Member | Branch | Amount recovered ₹ | Resp. Lr No. and Date |
|---------|------------------------------|------------------|--------------------|-----------------------|
| 1. | G. Ch. Demudu | Asilmitta, Vizag | 8,400-00 | 19.9.2003 |
| 2 | Ch. Harinath | Vadlapudi | 520-00 | -do- |
| 3 | Kondal Rao | -do- | 40,200-00 | -do- |
| 4 | K. Appa Rao | -do- | 6,370-00 | -do- |
| 5 | P.V. Ramana | MVP Colony | 17,860-00 | -do- |
| 6 | DVLN Murthy | Vizag Main | 300-00 | -do- |

The Respondent bank enclosed a chart while issuing letters to the employees while effecting recovery of the amounts under the guise of wrong payments. The said charts are containing the dates and alleged amounts paid

to each of the employees but the same are neither exhaustive nor explicit. On the other hand they show that the amounts were paid almost five or six years prior to the date of giving notice. During the conciliation proceedings the Assistant Labour Commissioner (Central), Visakhapatnam vide his notice dated 22.12.2003 advised the Respondent bank not to alter the conditions of service of the connected workmen in terms of the obligations imposed on the employer under Sec.33 of the Industrial Disputes Act, 1947. In spite of it, Respondent bank resorted to recovery of the alleged wrong payments while the dispute raised by the Petitioner union has been pending conciliation exhibiting scanned respect in the law. With vindictive mind Respondent bank is resorting to recovery of the amounts without heeding the requests made by the employees to reconsider their decision. The order of recovery is baseless and the allegations are unfounded. Respondent bank neither given any prior notice nor hearing to the affected employees to enable them to know how the Respondent bank has come to the conclusion that payments were illegal. Thus, the action of the Respondent bank is illegal, arbitrary and against the law and in violation of principles of natural justice. The details of amounts such as the heads of account under which the amounts were claimed by the employees and were sought to be recovered, were not given. The Respondent bank failed to realise that every payment has been duly authorised by not less than two officers of the bank and that more than 40 officers/Managers were involved in the process of authorisation of the alleged wrong payments over the period of five-six years. Respondent bank failed to provide the details/log book of the alleged van engaged by the bank for the exclusive purpose of cash remittance and also the vouchers submitted by the employees pertaining to each of payments. The so called report submitted by the security official of the bank basing on which the alleged recovery was ordered, is not furnished. The said security official never met the employees to question them regarding the various payments during the investigation. The report was submitted behind the back of the employees concerned. The profit and loss account in which the alleged payments were accounted for year after the year were audited from time to time by the officials of the Respondent bank and the other statutory organizations and the accounts were finalised year after the year and the balance sheets for the respective financial years were also drawn by the bank and submitted to RBI, for their scrutiny, duly audited and certified by the auditors that every account is drawn as per the norms of the bank. Therefore, the letters of the first Respondent dated 19.9.2003 issued to the employees mentioned in the reference are to be quashed and a direction is to be issued to the first Respondent to refund the illegally recovered amounts with suitable interest and pass other suitable orders.

3. **The Respondent Management filed their counter with the averments in brief as follows:-**

The Petitioner union is seeking a recourse to an administrative action taken by the Respondent bank in respect of its employees in their individual capacity which is not maintainable. The individual employees while working in Vadlapudi branch of the bank made certain claims of reimbursement of conveyance and out of pocket expenses against their entitlement. The issue of reimbursement of any expenses can arise only when it has actually been borne. But, the given employees who claimed and received reimbursement of conveyance expenses had not incurred any such expenses either by way of using their own vehicle or through hired vehicle instead they travelled by the transport provided by the bank. The bank hired a van for the purpose of providing conveyance to staff travelling on official work as well as cash remittances. While making use of the said company provided transport the employees had submitted bills seeking for reimbursement of conveyance expenses or out of pocket expenses at the rate of Rs.150/- per day which is illegal. Thus, they are wrong claims. Instead of initiating disciplinary proceedings for such wrong doing the bank decided only to recover the wrong payments made to them in easy instalments after communicating the same to them. But the union has raised an issue before the conciliation officer, but it could not be conciliated as the employees made a false claim with full knowledge of their disentanglement. The contention that bank has no right to effect recoveries of wrong payments made belatedly is not correct as it is a minimum logical assumption that such things can be effected only upon finding such anomalies. There can not be any time limit for the same. Detailed submissions were made before conciliation officer by the bank. The contentions raised before the conciliation officer that,

- a. The said amounts were not incurred as expenses by the beneficiaries.
- b. The vehicle was provided by the bank.
- c. No provision existed for payment of out of pocket expenses.
- d. Even when other banks/branches remitted cash to the Vadlapudi Branch, wherein no role of staff of Vadlapudi Branch was involved, then also amounts were paid to them.

The bank never made any alterations in service conditions of the employees during the pendency of the dispute as alleged in the petition. Bank has given prior notice and an opportunity of hearing to the employees before effecting the recovery. The information relating to the wrong claims together with the respective dates and amounts has been furnished. The same is more than sufficient to satisfy the employees about the wrong claims

made by them and to effect recovery of the same. Employees are not eligible for anything wrongly claimed and it does not matter whether an officer who has passed the vouchers had seen it or not before signing the voucher since such things are done in good faith as they were also co-employees. When wrong claims are faced it is to be rectified. The bank being a public sector bank can not overlook such illegal payments. The Petitioner union can not make a flimsy allegation that the log book does not show details irrelevant. The log book will be maintained for the purpose of running the kilometres and consumption of fuel and also to note the details of people who were carried to which destination and for what purpose. The security and vigilance reports form part of privileged documents which can be used only by Management. The facts relating to the false claims were clearly mentioned and it can never be said that report was submitted behind the back of the employees. It is only a case of false claim and subsequent recovery from the individual employees and the petition is liable to be dismissed.

4. To substantiate the claim of the Petitioner WW1 was examined and Ex. W1 to W7 were marked. On behalf of the Respondent Management MW1 was examined. No documents were marked for the Respondent Management.

5. Heard the arguments of either party. Written arguments were also filed by either party and the same are considered.

6. **The points that arise for determination are:-**

I. Whether the order passed by the Respondent Management ordering for recovery of amount in respect of the workmen S/Sh. G. Ch. Demudu, Ch. Harinath, Kondala Rao, K. Appa Rao, P. V. Ramana, D.V.L.N. Murthy on the ground of excess reimbursement /double expenses/ wrong payment is legal and justified?

II. To what relief the workmen are entitled to?

7. Point No. I :

It is an admitted fact that the Respondent Management ordered for recovery of the amounts as mentioned in the claim statement from the workmen concerned as described in the claim statement. It is also an admitted fact that the said amounts were recovered from the salaries of the respective workmen even after the dispute was raised by the Petitioner union before the conciliation officer.

8. It is the contention of the Petitioner that the said recovery is illegal and unjustified and that without giving prior notice and hearing to the concerned workmen the said recovery was effected arbitrarily. Whereas it is the contention of the Management that the said amounts were wrongly and without entitlement claimed and received

by the concerned workmen and thus the recovery is justified and correct. It is also their contention that prior notice and hearing were accorded to the workmen.

9. Now, it is to be verified whether there is any prior notice and hearing. The prior notice given by the Management according to them are Ex.W2 to W7, i.e., the impugned orders, under which the recovery has been ordered. Thus, it can not be termed as a prior notice. This is the final order itself but, not a notice whereunder an opportunity has been accorded to the concerned workmen to explain/set out their defence/to state the reason why recovery shall not take place. There is no record to show that there has been prior hearing opportunity was provided to the workmen to state their contentions to the Disciplinary Authority / Management. Thus, it can clearly be seen that without providing any prior notice and prior hearing the Management has taken the decision to recover the amounts, claiming that they are wrong payments made to the workmen. This is certainly in clear violation of principles of natural justice and thus, it is an arbitrary and unjustified order.

10. It is the contention of the Management that there has been a van provided by the Respondent bank and thus, the workmen would not have incurred the expenditure and thus, there was no need for any reimbursement and inspite of it they claimed the reimbursement and got it and thus, it is a wrong payment. But, inspite of specifically questioning MW1 regarding it and specific plea being raised by the Petitioner union in the claim statement, the particulars of the van said to have been provided by the bank are not given. Further, the Petitioner pressed for production of the log book but it is not produced. Reasons for non-production of the same and non-revealing of the particulars of the van are not given. Thus, it is to be deemed that the contentions of the Respondent Management that there has been a van provided and that it has been utilised by the workmen for discharging their official duties is not correct. Thus, the contention of the Respondent Management that the expenses were not actually incurred and there was no entitlement for the reimbursement is not correct.

11. It is an admitted fact that atleast two senior officers will be scrutinizing the vouchers and passing of the same before the reimbursement of the amounts be done in the bank. In such case if there is no entitlement at all for payment of out of pocket expenses, the reimbursement would not at all have been done. But in this case after due scrutiny the payments were made long prior to the ordering of the recovery. In such case the contentions of the Respondent bank that there is no entitlement at all and that out good faith the scrutiny officers have passed the vouchers, is not an acceptable version. It is not the case of the Respondent bank that any action has been taken against the officers who scrutinized the vouchers

and passed the same. Further, there is no answer for the contention of the Petitioner that there was regular audit of the bank accounts in each and every financial year by the officials of the Respondent bank and other statutory organizations and that the accounts finalised year after year and the Respective balance sheets for each financial year were also drawn by the bank and submitted to the RBI, for their scrutiny duly audited and certified by the auditors that every account is drawn as per the norms of the bank. In such case, how a security officer's report could point out the incorrectness of the reimbursement of the amounts of the workmen all of a sudden and after lapse of substantial period from the dates of reimbursement is a question which shall be answered and explained to the workmen. The security officer's report which lead to the recovery must be revealed to the affected workmen as they are entitled to know the reason why the recovery was ordered. But it was not done and the workmen are kept in dark.

12. In view of the fore gone discussion, it can clearly be seen that the impugned orders dated 19.9.2003 are arbitrary, unjust and are in violation of principles of natural justice and they are liable to be set aside.

This point is answered accordingly.

13. Point No.II:

In view of the finding given in point No.I above, the recovery of the amounts made by the Respondent Management from the respective salary of the workmen herein is not at all justified and thus, the said amount shall be refunded to the workmen by the Respondent Management with interest at the rate of 6% per annum from the date of recovery to the date of refund.

This point is answered accordingly.

Result :

In the result the reference is answered as follows:

The action of the Management of the Bank of Baroda, Regional Office, A.P. / Management in ordering recovery of amount in respect of the workmen, S/Sh. G.Ch. Demudu, Ch. Harinath, Kondala Rao, K. Appa Rao, P. V. Ramana, D.V.L.N. Murthy on the ground of excess reimbursement/ double expenses/wrong payment is neither legal nor justified. Thus, the said orders dated 19.9.2003 are hereby set aside. These six workmen shall be refunded with the amounts recovered from their respective salaries together with interest at the rate of 6% per annum from the date of recovery to the date of refund.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 10th day of September, 2014.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence :

| Witnesses examined for the Petitioner | Witnesses examined for the Respondent |
|------------------------------------------|------------------------------------------|
| WW1: Sri Y. Jankiram | MW1: Sri B. Priya Kumar |

Documents marked for the Petitioner

| | |
|---------|--------------------------------------------------------------------------|
| Ex.W1 : | Photostat copy of Ir. No.7/11/2003-ALC dt.22.12.2003 |
| Ex.W2 : | Photostat copy of Respondent bank's Ir. to Sri G.Ch. Demudu dt.19.9.2003 |
| Ex.W3 : | Photostat copy of Respondent bank's Ir. Sri D.V.L.N. Murthy dt.19.9.2003 |
| Ex.W4 : | Photostat copy of Respondent bank's Ir. Sri K. Appa Rao dt.19.9.2003 |
| Ex.W5 : | Photostat copy of Respondent bank's Ir. Sri P.V. Ramana dt.19.9.2003 |
| Ex.W6 : | Photostat copy of Respondent bank's Ir. Sri Kondal Rao dt.19.9.2003 |
| Ex.W7 : | Photostat copy of Respondent bank's Ir. Sri Ch. Harinath dt.19.9.2003 |

Documents marked for the Respondent

NIL

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2715.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 41/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-12012/32/2006-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2715.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 09/10/2014.

[No. L-12012/32/2006-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present : Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 11th day of September, 2014

INDUSTRIAL DISPUTE No. 41/2006**Between:**

Smt. P. Samrajya Laxmi,
D.No.26-13-4, A.T. Agrapharam,
4th Lane Ending, Malla Reddy Nagar,
State Bank Colony,
Guntur – 522004.Petitioner

AND

The Regional Manager,
Indian Overseas Bank,
Regional Office,
Benz Circle,
Vijayawada.Respondent

Appearances:

For the Petitioner : Sri William Burra, Advocate

For the Respondent : M/s. K. Suryanarayana,
C. Sridhar, S. Srikanth &
G. Narasimha, Advocates

AWARD

Vide proceeding No. L-12012/32/2006-IR(B-II) dated 20.7.2006, Government of India, Ministry of Labour and Employment, New Delhi made a reference to this Tribunal requiring this Tribunal to give its award on the question,

“Whether the action of the Management of Indian Overseas Bank, in removing the services of Smt. P. Samrajya Laxmi, Ex. Messenger of Guntur branch from service is justified or not? If not, what relief the individual is entitled to?”

On receiving the said reference this Tribunal notified the workman Smt. P. Samrajya Laxmi and also the Management of Indian Overseas Bank, Vijayawada Region. Both the parties appeared before the Tribunal and engaged their respective counsels with the consent of each other and the leave of the Tribunal.

2. Smt. P. Samrajya Laxmi the workman, has filed her claim statement with averments in brief as follows:

The workman was appointed as messenger on 18.8.1997 on compassionate grounds since her husband died on 24.6.1996 while in service of the bank. She has been attending to her duties regularly and without any bad remark. While so, she fell ill due to lung disease in March, 1999. She suffered acute breathlessness and unable to walk due to exertion and attendant problems. She took prolonged treatment for about 6 months. She informed of the same to the Respondent bank orally and requested them to grant leave as per rules in force. On completion of the treatment she reported to duty in November, 1999 with a doctor's certificate. But due to her ill-luck the Respondent has treated the entire period

as unauthorized absence and issued show cause notice dated 24.7.2000 proposing the punishment of compulsory retirement from bank's service under Clause 17.6(b) of Bipartite settlement dated 14.12.1996. Later she was removed from service by the Disciplinary Authority on 31.3.2003 awarding penalty of removal service with superannuation benefits, i.e., pension and/or Provident fund and gratuity as would be due otherwise under the rules and regulations prevailing at the relevant time and without disqualification from future employment”, in terms of 6.6(b) of bipartite settlement dated 10.4.2004. Aggrieved by the same she preferred an appeal to the Appellate Authority but the Appellate Authority confirmed the punishment awarded by the Disciplinary Authority. Thereon she approached the Labour Commissioner (C), Vijayawada who tried to resolve the dispute amicably but in vain. Thereafter reference is made by the Government of India. Respondent bank deliberately made false charge that the workman was absent unauthorizedly even though she and her sons periodically informed about her sickness. If such oral information is not satisfactory Respondent should have issued a letter directing the workman to submit written application or other requirements if any. The intentions of the Respondent bank appear to be waiting for an opportunity to throw her out of employment. She is an illiterate person and not knowing the rules and regulations did not submit the written application for grant of leave. She has not committed any grave mistake warranting compulsory retirement. The earlier awarded punishment was stoppage of two future increments with cumulative effect vide chargesheet/order dated 26.11.1999. Evidently the Management bore grudge and enhanced the punishment to compulsory retirement which is illegal, arbitrary and against the rules and regulations and also against principles of natural justice. The said punishment is disproportionate to the offence committed by the workman. Hence, the order dated 31.3.2003 is liable to be quashed. The workman is entitled for reinstatement from the date of termination with full back wages, continuity of service and other attendant benefits.

3. Respondent filed their counter with averments in brief as follows:

The services of the workman who has been given compassionate appointment were confirmed on 18.2.1998. She was in the habit of taking unauthorised leave and was continuously on loss of pay for months together. She did not change her attitude and refrained from availing unauthorised absence inspite of several letters, reminders etc.. She was given chargesheet on 26.11.1999 for her unauthorised absence after conducting domestic enquiry as per procedure and after giving personal hearing and show cause notice the workman was awarded with the punishment stoppage of two future increments with cumulative effect vide order dated

7.5.2001. In spite of the same she continued to be absent to her duties though several letters, reminders and warnings were issued to her. Thus, she was again chargesheeted on 8.7.2002 and again domestic enquiry was conducted against her as per procedure. Personal hearing and show cause notice were issued to her. Thereafter the punishment of removal from service with superannuation benefits was awarded to her vide order dated 31.3.2003 and the same was confirmed by the Appellate Authority vide order dated 8.7.2003. She raised the present industrial dispute challenging the said order. To the various letters addressed by the bank to the workman, she did not give any reply. During the domestic enquiries conducted against her she admitted her guilt regarding the charge of unauthorised absence and wilful insubordination and disobeying lawful and reasonable orders. After extensively going through the record of the workman and her case, enquiry proceedings, show cause notice and personal hearing the Disciplinary Authority awarded the punishment of removal from service with the superannuation benefits which has been confirmed by the Appellate Authority on duly considering the material on record. There is no violation of principles of natural justice in this case. The procedure has been scrupulously followed by the Disciplinary Authority and Appellate Authority. The workman has been given various opportunities but for no purpose. She did not change her habit of unauthorised absence. In the said circumstances, having no other option her services were terminated by removing her from service with superannuation benefits. The workman has no right of seeking employment in any manner, the claim is liable to be dismissed.

4. Along with the counter the Respondent Management produced the entire record of domestic enquiry proceedings and the same is perused. The workman also produced the documents like chargesheet dated 26.11.1999, order of Disciplinary Authority dated 31.3.2003, the Appellate order dated 8.7.2003, the representations and applications made by her and a bunch of medical record and the same are perused.

5. Since, the Petitioner reported that she is not disputing regarding the validity of domestic enquiry the same is held as valid by virtue of the order dated 29.4.2013.

6. Heard the arguments under Sec.11A of the Industrial Disputes Act, 1947. Written arguments are also filed for the workman and the same are considered.

7. The points that arise for determination are:

- I. Whether the action of the Management of the Respondent bank in removing the workman from service is justified or not?
- II. To what relief the workman is entitled to?

8. Point No.I:

The very admitted facts of this case indicate that Smt. P. Samrajya Laxmi, the workman has been continuously absent from duties for months together and she failed to apply for grant of any kind of leave for these periods. The Respondent bank was constrained to issue several letters to her requiring her to report to the duty but without any response from the workman. When the Respondent bank issued a letter to the workman to report to duty within 30 days from the date of receipt of letter dated 4.11.1999 otherwise it would be deemed that she has voluntarily retired from service on her own accord, the workman who has been unauthorizedly absent from service from 17.3.1999 to 7.9.1999, reported duty on 8.9.1999 and submitted a letter of undertaking not to be absent from duty unauthorizedly thereafter.

9. But again she unauthorizedly absented herself from duty during the months of September, October and November, 1999 which resulted into issuance of the first chargesheet dated 26.11.1999. Regular departmental enquiry was conducted against her and she duly participated in the said enquiry. After giving due opportunity to her the Respondent bank awarded the punishment of stoppage of two future increments with cumulative effect to her.

10. Even there after as she was unauthorizedly absenting herself from duties the Respondent bank was constrained to issue the second chargesheet dated 8.7.2002, after giving due opportunity to her to improve her conduct but in vain. Thereafter, a regular domestic enquiry was again conducted against the workman giving her due opportunity. She participated in the said enquiry and after duly hearing her and considering the material on record the impugned order dated 31.3.2003 has been passed by the Disciplinary Authority which has been confirmed by the Appellate Authority. All these aspects are being considered as admitted facts, since the workman failed to say anything contra in her claim statement.

11. Further more, a fact to be noted is that the workman has made an effort to conceal the true facts in her claim statement by stating that consequent to show cause notice dated 24.7.2000, the order dated 31.3.2003 was passed which is far from truth as can be gathered from the material on record. Show cause notice dated 24.7.2000 is in connection with the first enquiry conducted against the workman in which the punishment of stoppage of two future increments with cumulative effect, has been awarded. The order dated 31.3.2003 has been passed against the workman, after conducting second domestic enquiry against her, since she was continuously absenting herself from her duties even after the earlier departmental enquiry and awarding punishment and after giving several other opportunities to improve her conduct by addressing letters again and again by the Respondent

bank. Thus, there is no truth in the contentions of the workman that the Respondent bank issued show cause notice dated 24.7.2000 proposing the punishment of compulsory retirement from bank's service and later she was removed from service by the Disciplinary Authority on 31.3.2003. These two proceedings are pertaining to two different disciplinary proceedings initiated against the workman by the Respondent bank in connection with two different spells of unauthorised absence from duty on the part of the workman.

12. The material on record goes to show that the Respondent bank has indulged the workman by giving opportunity time and again to change her ways and improve her conduct by addressing several letters, giving several warnings, accepting her undertakings which were not actually honoured by her, but inspite of it as she failed to change her ways and improve her conduct by refraining herself from being unauthorizedly absent from duties, the Respondent bank was constrained to initiate disciplinary proceeding against her time and again. In the first domestic enquiry also she has been shown indulgence by awarding lesser punishment that is, stoppage of two future increments with cumulative effect, but the said punishment also could not cure the ways of the workman. she was again continuously absenting herself from duty unauthorizedly which resulted into the initiation of second domestic enquiry in which the impugned order has been passed.

13. Learned Counsel for the Petitioner is contending that the removal from service is not proportionate punishment to the charges levelled and proved against the workman and that such grave penalty ought not to have been imposed when different categories of penalty can be imposed in respect of the misconduct committed by the workman. in this regard he is relying upon the principles laid down in the cases of : R.M. Parmar Vs. Gujarat Electricity Board (1983) (1) LLJ 261; Alliance Mills (Lessees) Pvt. Ltd., Vs. State of West Bengal 1991 (1) LLJ 71 ; and also Ramu Vs. District & Sessions Judge, Kolar & others, 1990 (1) LLJ 137. The facts and circumstances of all these cases are totally different to that of the present case. The facts of the present case discussed above, clearly show that the Respondent bank has indulged the workman and gave her opportunity over opportunity to reform herself but in vain. A lesser penalty also was imposed once. But inspite of it the workman did not cure her ways and continued to be unauthorizedly absent from duty. Thereon the Respondent bank was constrained to initiate Disciplinary action against her again, and evidently noting that there was no hope of improvement in the conduct of the workman, awarded the punishment of removal from service. Thus, the various principles laid down in the above referred cases are not helpful to the cause of the workman herein.

14. No doubt, it is the contention of the workman all along that due to ill-health she could not attend to the duties regularly but a perusal of the departmental enquiry proceedings reveal that even though due opportunity was afforded to her by the Enquiry Officer she failed to produce any medical record which can substantiate her contention that owing to ill-health she could not attend to her duties regularly. Evidently she did not produce any such medical record either before the Enquiry Officer or before the Disciplinary Authority at any point of time during Disciplinary proceedings. Now, before this Tribunal she produced some medical record which can not be looked into for the reason that this forum can look into the record of the departmental enquiry only and verify whether the same were conducted properly and as per the procedure and the punishment was awarded in proportion to the gravity of the charges levelled and proved. Further more, it is not the case of the workman that she was not granted any opportunity to produce the relevant medical record during the course of the domestic enquiry. On the other hand the domestic enquiry proceedings reveal that opportunity was given but she failed to produced the same, as already observed above. In the given circumstances, the principles laid down in the case of J. Nageswara Rao Vs. Chairman and MD, Visakhapatnam Steel Plant 1994(II) LLN 82 (APDB) relied upon by the Learned Counsel for the workman are not applicable to the facts of the present case.

15. Learned Counsel for the workman is contending that for more period of absence from duty, the Disciplinary Authority awarded stoppage of increments in the first domestic enquiry proceedings conducted against the workman whereas for lesser period of absence from duty the second disciplinary proceedings were launched and for that the workman was removed from service, which is not proper. This contention can not be accepted for the reason that the Disciplinary Authority in their wisdom and to give opportunity to the workman to mend her ways awarded lesser form of punishment in the first occasion of Disciplinary action but inspite of it she failed to mend her ways which resulted into the second Disciplinary action. Considering the conduct of the workman through out while deciding the punishment to be imposed during the second disciplinary action, which include the punishments suffered by her as a result of the first disciplinary action the Disciplinary Authority has rightly resorted to award the punishment of removal from service against the workman. One another fact to be noted is that even then the Disciplinary Authority has shown indulgence by not denying the retirement benefits, i.e., pension and provident fund and also future employment. When the case is considered in its entirety what one can reasonably understand is that the workman herein has been awarded with appropriate and proportionate punishment only, for

her conduct. Thus, the impugned order dated 31.3.2003 and is not liable to be interfered with in any manner.

This point is answered accordingly.

16. Point No. II :

In view of the finding given in Point No.I above, the workman is not entitled for any of the reliefs sought for.

This point is answered accordingly.

Result :

In the result, the reference is answered as follows:

The action of the Management of Indian Overseas Bank in removing the workman Smt. P. Samrajya Laxmi, Ex. Messenger of Guntur branch from service is justified. The said workman is not entitled for any relief.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined
for the Petitioner

NIL

Witnesses examined
for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2716.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 16/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2716.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 09/10/2014.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present : Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 15th day of September, 2014

INDUSTRIAL DISPUTE L.C.No. 16/2004

Between :

Balimidi Lakshmi alia Kusuma Kumari,
W/o Late Varadaiah,
D. No.27/727, Balajinagar,
Main Road, Nellore -524 002.

....Petitioner

AND

1. The Deputy General Manager,
Syndicate Bank,
Industrial Relation Cell,
Zonal Office, D.No.6-3-653,
Somajiguda, Hyderabad – 500 482.

2. The General Manager(P),
Syndicate Bank,
Head Office,
Manipal – 576 119.

...Respondents

Appearances:

For the Petitioner : M/s. D. Bala Raju &
K. Ajay Kumar, Advocates

For the Respondent : Sri Alluru Krishnam Raju,
Advocate

AWARD

Smt. Balimidi Laxmi alias Kusuma Kumari, the workman has filed this petition invoking Sec.2A(2) of Industrial Disputes Act, 1947 seeking for setting aside the orders dated 31.12.1997 and 24.4.1998 of the Respondent Nos.1 and 2 respectively and to direct them to reinstate her into service of the Respondent bank with continuity of service, back wages and all other attendant benefits.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed to the post of clerk in the Respondent bank on 29.11.1986 on compassionate grounds owing to sudden demise of her husband while on duty of the bank. She was given posting at Nellore and had been working continuously to the satisfaction of her superiors. At the time of joining into service she joined in Tutorial College, Nellore to pursue degree course in single sitting and attended to the examination through the said Tutorial College, in Meerut University. The said college has issued degree certificate and marks list issued by Meerut University. She believed the same as genuine

certificates and submitted the same to the Respondent bank as her educational qualifications and the bank accepted the same. But surprisingly, first Respondent issued chargesheet dated 26.12.1990 to her alleging that she produced false educational certificates and got appointment in bank for clerk post and thus she committed misconduct within the meaning of clause 19(5) of the bipartite settlement and describing it as, “doing acts prejudicial to the interests of the bank” and knowingly making false statement in connection with the employment in the bank. But she did not commit any misconduct as alleged. Clauses 19.5(j) and (m) of bipartite settlement are not applicable to the alleged misconduct of the Petitioner and much prejudice has been caused her to defend her case with good faith and believing the version of the tutorial college at Nellore she joined the degree course, pursued the said education and attended to the examinations after attending the contact classes at New Delhi. The tutorial college got hall tickets issued by Meerut University to write the examination for her and other candidates who attended to the said course and they all were taken to New Delhi where the examinations were conducted. The Tutorial College, Nellore put a notice on their notice board that the Petitioner and other persons who studied in their college and attended to the examinations at New Delhi for degree course passed the examinations. Some days later, they gave the provisional certificate and marks list to the Petitioner and two others. She submitted the same to the bank as her educational qualification. Without questioning the genuineness of the said certificates bank has received the same. She was under bonafide impression that the said certificates are genuine. Only after receipt of the chargesheet and when she made enquiries, she came to know that she was cheated by the said tutorial college and that the provisional certificate and marks list given by the said tutorial college only but not by Meerut University. Petitioner is an innocent and poor widow who was cheated by the tutorial college. She never intended to practice any deception or fraud on the Management of the bank. She never intended to secure job in the bank by producing false education certificate. The bank accepted the degree certificate issued by Meerut University to several employees like, Sri Kaleswara Rao, working in main branch Nellore, Sri Sowri Rajan, working in Alluru branch. There are about 32 employees who are still in the service of the Respondent bank who got such certificates, but Respondents picked the Petitioner herein only and issued chargesheet against her and ultimately dismissed her of services which is highly discriminatory. This is a public cheating on the part of the Tutorial College. In case of public cheating, orders were passed by the Government of A.P., granting one time amnesty to the victims of such cheating, the Management

is well aware of the same. The State Government has not dismissed the services of the employees who submitted fake certificates. When most experienced staff of the bank have fallen a prey to the cheating perpetuated by the Tutorial College/public media the Petitioner who has been a house wife without having exposure to public life can not be blamed or singled out for obtaining degree from Meerut University. She gave her explanation to chargesheet with the true facts. But instead of dropping further action, the domestic enquiry has been ordered against the Petitioner and also 17 other employees of the bank. A common domestic enquiry was conducted against them all. But no full and fair opportunity was given to the Petitioner. Copy of CBI report and the reports of Registrar or concerned authorities of Meerut University letter dated 22.12.1998 are not supplied to her. Copies of Ex.M1 to M87 are also not supplied to her. The Enquiry Officer acted as prosecutor and judge. Principles of natural justice were totally violated. Relevant rules of the bank were not supplied to her. No eye witnesses were examined to prove the misconduct. The authorities of Meerut University were not examined. Petitioner opposed the common enquiry but in vain. The common enquiry caused much prejudice to her defence. She was not given any opportunity to give her evidence. Common enquiry report was given for all 18 employees. The findings of Enquiry Officer are perverse and biased. 1st Respondent ought to have differed from the said findings. But he accepted the same in routine and mechanical way and without considering the explanation of the Petitioner given in her comments on the enquiry findings and also during personal hearing. Without issuing 2nd show-cause notice for proposed punishment the impugned proceeding dated 31.12.1997 was issued dismissing the Petitioner from service which is illegal and it is liable to be set aside. The punishment imposed is shockingly disproportionate to the charges. The reformatory theory propounded by the Apex Court is not followed. Since her appointment was on compassionate grounds education qualification was not necessary and it was not pre-condition. Further, during the year 1993 she sat for entrance examination for BA Degree in Dr. B.R. Ambedkar Open University and passed degree course and now she is a graduate. She submitted the information to the Respondent bank. She is a poor widow having two children and she is suffering financially and mentally due to her dismissal from service. She has no other source of income to maintain herself and her children. She could not secure any alternative job inspite of her best efforts. She preferred an appeal to the 2nd Respondent seeking for reconsidering her case but in vain. As she got no financial capacity and legal knowledge there was delay in approaching the Tribunal on her part. Hence, the petition.

3. The Respondent Management filed their counter with the averments in brief as follows:

Petitioner was appointed in Respondent bank on compassionate grounds consequent to the death of her husband who worked as an officer in the said bank and died while in service. She applied for the job and on the basis of information provided by her while seeking employment in the clerical cadre she was appointed as a clerk in the year 1986. The fact remains that she suppressed true information while applying for the employment and knowingly submitted false information regarding her educational qualification. The same came to the knowledge of the Management on a later date. Petitioner has not even passed school final examination, which is the basic educational qualification and minimum requirement to get appointment as a clerk in any bank. But Petitioner falsely claimed that she is a graduate and thus, she was given additional benefit at the time of recruitment itself by way of additional increments payable only to graduates. Subsequently she herself admitted that she was cheated by the tutorial college where she studied and that her declaration is false. When the Respondent Management came to know about the false educational certificate submitted by the Petitioner, she was served with the chargesheet during the year 1990 and a departmental enquiry was conducted in which Petitioner participated along with her defence representative. Since her explanation was not satisfactory only departmental enquiry was initiated. Her contention that enquiry was not conducted properly and she was not given opportunity during enquiry to defend her case are all after thoughts and incorrect versions. She never raised such pleas at any stage before filing WP No.15644 of 2001. Her contention that charges are vague is also incorrect and it is a belated plea taken. Her contention that some employees who were similarly situated submitted similar certificates from the same tutorial college and that they got promotion and increment basing on such certificates and that the Management in such cases has only rebutted those employees by one grade and has withdrawn the monetary benefits are all not correct. Her further contention that some of the employees similarly joined in the service of the bank are continued in the service is also not correct. Some of the employees who joined the bank with required minimum qualification subsequently for the purpose of obtaining promotion submitted certificates to the effect that they became graduates and they were elevated to the post of clerk and were given attendant benefits. When the bank came to know that such certificates were not genuine Departmental action was initiated and thereafter they were reverted back to their original posts and all the benefits which were given to them were withdrawn and amounts paid consequent to the said promotions were recovered. But in the case of the Petitioner she was not having even the minimum i.e., Matriculation certificate with 60% marks to secure job as a clerk in a bank. She

submitted that she left the school while studying SSC. It was not mentioned whether she passed SSC examination. She was appointed on the basis of graduation certificate produced by her which is found to be a fake certificate. Further investigation was done and it was observed that Petitioner produced a certificate stating that she left the school while studying SSC which was not properly observed by bank officials at the time of recruitment by oversight. The provisions of service conditions applicable to the Petitioner clearly state that any information given by any employee while taking up employment in the bank, if proved to be false, would amount to major misconduct and thus she was charged for committing misconduct. Petitioner can not allege that she was discriminated. There is no violation of articles 14 and 16 of Constitution of India. It is the responsibility of the Petitioner to ensure that the courses for which she has applied for are genuinely conducted by the University and the certificates given to her are genuine. The disciplinary action was initiated and conducted as per the service conditions applicable to her. There is no violation of principles of natural justice. The enquiry report is legal, contra contention is incorrect. Petitioner failed to show how prejudice is caused to her case, on account of alleged violations in conducting the departmental enquiry. While giving employment to the Petitioner in the bank she was specifically informed that if it is found that the information furnished by her or the certificate submitted by her is found to be not correct/false, her services can be terminated as per the rules of the bank. Petitioner accepted the said terms and conditions of the service and joined the service of the bank on 8.12.1986. Since she produced a Photostat copy of the certificate while seeking the employment she was asked to produce the original, vide letter dated 14.10.1987 for verification but she did not produce. Again a letter dated 22.12.1988 was served on her informing her that since in the copy of the certificate submitted by her at the time of seeking employment it is stated that she appeared for SSC examination in the year 1967 but it was not clearly mentioned whether she actually passed the same. She was asked to produce the original SSC certificate for verification and she was also requested to inform whether actually she has passed the exam or any other examination other than the BA degree examination which she had submitted while seeking employment with the bank. She did not give any reply. Thereafter she sought permission during the year 1994 vide letter dated 14.7.1994 to join BA Degree in Ambedkar Open University, Hyderabad. She was issued with chargesheet dated 16.12.1990 for having submitted false information regarding her educational qualifications while seeking employment. She accepted the guilt and repaid all the monetary benefits which she received by falsely submitting that she passed BA Degree. Even at the stage, she has not rebutted the allegation and did not produce any proof for having passed the degree examination and did not prove that

the certificate produced by her has been genuine. At the time of personal hearing to hear the matter of punishment proposed she claimed that the Board of Secondary Education, Andhra Pradesh issued a certificate which can prove that she passed X standard during March, 1989 and that she was not a matriculate or holding SSC certificate on the date of seeking employment. Thus, it is clear that she passed SSC only during the year 1989 and that the degree certificate produced by her while seeking employment by her is not genuine. In the given circumstances, she is not entitled to continue in the services of the bank as per service conditions applicable to her and as per the terms and conditions of her employment.

4. By virtue of order dated 25.7.2012 the domestic enquiry conducted in this case is held as valid as Learned Counsel for the Petitioner represented that Petitioner is not challenging the validity of the same.

4A. Heard the arguments under Sec.11(A) of the Industrial Disputes Act, 1947. Written arguments were also filed for either party and the same are considered.

5. The points that arise for consideration are:

- I. Whether the orders dated 31.12.1997 on 24.4.1998 passed by Respondent Nos. 1 and 2 respectively are liable to be set aside? If so, on what grounds?
- II. Whether the Petitioner is entitled for reinstatement into service of the Respondent bank with continuity of service, back wages and other attendant benefits?

6. Point No.I:

It is an admitted fact that Petitioner submitted a fake educational qualification certificate to the effect that she has been a graduate and secured employment with the Respondent bank as a clerk on compassionate grounds owing to the death of her husband in harness.

7. It is the claim of the Petitioner that she genuinely believed that the educational qualification certificate produced by her with the Respondent bank while seeking employment was a genuine certificate and that she was cheated by the Tutorial College in which she joined and pursued the degree course. But, there is no record produced by the Petitioner to show that she has taken any legal action against the said Tutorial College, as can be seen from the domestic enquiry record, produced before this Tribunal for consideration. In any way the fact remains that the educational qualification certificate produced by the Petitioner before Respondent bank is a fake certificate.

8. One another important aspect to be noted is that Petitioner has made a vague statement in her application regarding her education particulars by stating that she left the school while studying SSC. But the fact remains that, further enquiry revealed that she never attended any

SSC course. Further, she herself revealed before the Management that she could secure SSC pass certificate only in the year 1989, thus, it is very much clear that she was not having even minimum education qualification i.e., matriculation for securing the job as clerk with the Respondent bank as on the date of her appointment as clerk with the said bank i.e., 8.12.1986.

9. As can be seen from the very contentions of the Petitioner, the employees who got promotion /increments basing on such false education certificates were reverted back and monetary benefits extended to them were recovered by the bank, when they found that the said certificates are fake certificates and enquired into the said matter. The Respondent bank is claiming that they were continued in the employment since at the time of their initial appointment they were holding minimum educational qualification required but later on to gain promotions, they produced further educational qualification certificates which were found to be fake and the benefits extended to them basing on such false educational certificates alone were denied to them by reverting them to their original posts and by recovering the monies paid to them consequent to extending such benefits.

10. As can be gathered from the contentions put forth for the Respondent bank even in the case of the Petitioner an enquiry has been made to know whether she was holding a minimum educational qualification i.e., matriculation/SSC by the date of her initial appointment, when it was noted that the degree certificate produced by her is a fake certificate but the enquiry revealed that she was not holding any such matriculation /SSC qualification by that date. Even it is not the contention of the Petitioner that she was having any matriculation/SSC qualification by the date of her joining with the service of the Respondent bank. Thus, it is clear that she was not qualified to secure the job of clerk with the Respondent bank as on the date of joining into service by her. She is not disputing with the fact that while employing her she was made known to the condition that, "if it is found that the information furnished by her or the certificates submitted by her is found to be not correct/false her services can be terminated as per the rules of the bank". In the given circumstances it can not be said that the action taken by the bank against the Petitioner is in violation of any rule, or that there was any discrimination shown against her by the Respondent bank. If she was having the minimum education qualification i.e., matriculation /SSC by the date of joining her service, the Respondent would have continued her in service but only taking the action of recovering extra increments granted to her believing that she was a graduate by the date of joining in service as they have done in the other cases. As she was not having the very minimum education qualification required for her recruitment as a clerk, by the

date of her joining into the service, the Respondent bank was constrained to remove her from service. It is a just and correct action on the part of the Respondent bank.

11. As can be gathered from the material on record, the Enquiry Officer did not violate any principles of natural justice. the common enquiry conducted against the Petitioner and other similarly placed employees has not resulted into any prejudice to her. It can be said so since, she could not specify any such prejudice. The domestic enquiry conducted in this case has been held as valid since she herself has chosen not to challenge the same. As the punishment awarded is concerned it is the only course of action to be taken by the Respondent Management in this case Petitioner she was not holding the minimum required education qualification by the date of joining into the service by her.

12. In view of the fore gone discussion the impugned orders dated 31.12.1997 and 24.4.1998 passed by the Respondent Nos.1 and 2 respectively are not liable to be set aside.

This point is answered accordingly.

13. Point No. II:

In view of the finding given in point No. I, Petitioner is not entitled for any of the reliefs sought for in this petition.

14. Result:

In the result, petition is dismissed.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

| Witnesses examined for the Petitioner | Witnesses examined for the Respondent |
|------------------------------------------|------------------------------------------|
| NIL | NIL |

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 अक्टूबर, 2014

का.आ. 2717.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 151/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 09-10-2014 को प्राप्त हुआ था।

[सं. एल-12011/73/2004-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 9th October, 2014

S.O. 2717.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 151/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 09/10/2014.

[No. L-12011/73/2004-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT AT HYDERABAD**

Present : Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 10th day of September, 2014

INDUSTRIAL DISPUTE No.151/2004

Between :

The General Secretary,
Bank of Baroda Staff Union, Andhra Pradesh,
C/o Bank of Baroda, Machilipatnam Branch,
Revathi Complex, Machilipatnam-521001
Krishna District.Petitioner

AND

The Asst. General Manager,
Bank of Baroda,
Regional Office, Hyderabad Business Centre,
Old MLA Quarters Road, Basheerbagh,
Hyderabad – 500 029.Respondent

Appearances:

For the Petitioner : M/s. K. Rama Reddy &
Y. Ranjit Reddy, Advocates

For the Respondent : M/s. K. Srinivasa Murthy,
V. Umadevi, Adibabu,
Praveen & Sanjay, Advocates

AWARD

Vide order No. L-12011/73/2004-IR(B-II) dated 18.8.2004 of Government of India, Ministry of Labour and Employment, New Delhi a reference is made to this Tribunal calling upon it to give its award on the question,

“Whether the action of the Management of the Bank of Baroda, Regional Office, Andhra Pradesh by ordering of recovery of amount in respect of the workmen (Shri/Sh. M.V. Sivaram, N.S.N. Raju, P. Chandra Rao) on the ground of excess reimbursement / double expenses is legal and justified? If not, what relief the workmen concerned entitled to?”

On receiving the reference, both the Petitioner union and the Respondent Management were notified of the same. Both of them appeared before this Tribunal and engaged their respective counsels with the consent of each other and leave of the Tribunal.

2. The Petitioner union filed their claim statement with the averments in brief as follows:-

The present petition is in respect of illegal deduction of certain amounts under the guise of “wrong payments” from the salary of three members of the Petitioner union working in various branches / offices the details of which are given here under:

| Sl. No. | Name of the Employee/ Member | Branch | Amount recovered Rs. | Resp. Lr No. and Date |
|---------|------------------------------|---------------|----------------------|-----------------------|
| 1. | M.V. Siva Ram | Visakhapatnam | 6,390-00 | 19.9.2003 |
| 2 | N.S.N. Raju | Vadlapudi | 22,460-00 | -do- |
| 3 | P. Chandra Rao | Chilka guda | 8,490-00 | -do- |

The Respondent bank enclosed a chart while issuing letters to the employees while effecting recovery of the amounts under the guise of wrong payments. The said charts are containing the dates and alleged amounts paid to each of the employees but the same are neither exhaustive nor explicit. On the other hand they show that the amounts were paid almost five or six years prior to the date of giving notice. During the conciliation proceedings the Assistant Labour Commissioner (Central), Visakhapatnam vide his notice dated 22.12.2003 advised the Respondent bank not to alter the conditions of service of the connected workmen in terms of the obligations imposed on the employer under Sec.33 of the Industrial Disputes Act, 1947. In spite of it, Respondent bank resorted to recovery of the alleged wrong payments while the dispute raised by the Petitioner union has been pending conciliation exhibiting scanned respect in the law. With vindictive mind Respondent bank is resorting to recovery of the amounts without heeding the requests made by the employees to reconsider their decision. The order of recovery is baseless and the allegations are unfounded. Respondent bank neither given any prior notice nor hearing to the affected employees to enable them to know how the Respondent bank has come to the conclusion that payments were illegal. Thus, the action of the Respondent bank is illegal, arbitrary and against the law and in violation of principles of natural justice. The details of amounts such as the heads of account under which the amounts were claimed by the employees and were sought to be recovered, were not given. The Respondent bank failed to realise that every payment has been duly authorised by not less than two officers of the bank and that more than 40 officers/

Managers were involved in the process of authorisation of the alleged wrong payments over the period of five-six years. Respondent bank failed to provide the details/log book of the alleged van engaged by the bank for the exclusive purpose of cash remittance and also the vouchers submitted by the employees pertaining to each of payments. The so called report submitted by the security official of the bank basing on which the alleged recovery was ordered, is not furnished. The said security official never met the employees to question them regarding the various payments during the investigation. The report was submitted behind the back of the employees concerned. The profit and loss account in which the alleged payments were accounted for year after the year were audited from time to time by the officials of the Respondent bank and the other statutory organizations and the accounts were finalised year after the year and the balance sheets for the respective financial years were also drawn by the bank and submitted to RBI, for their scrutiny, duly audited and certified by the auditors that every account is drawn as per the norms of the bank. Therefore, the letters of the first Respondent dated 19.9.2003 issued to the employees mentioned in the reference are to be quashed and a direction is to be issued to the first Respondent to refund the illegally recovered amounts with suitable interest and pass other suitable orders.

3. The Respondent Management filed their counter with the averments in brief as follows:-

The Petitioner union is seeking a recourse to an administrative action taken by the Respondent bank in respect of its employees in their individual capacity which is not maintainable. The individual employees while working in Vadlapudi branch of the bank made certain claims of reimbursement of conveyance and out of pocket expenses against their entitlement. The issue of reimbursement of any expenses can arise only when it has actually been borne. But, the given employees who claimed and received reimbursement of conveyance expenses had not incurred any such expenses either by way of using their own vehicle or through hired vehicle instead they travelled by the transport provided by the bank. The bank hired a van for the purpose of providing conveyance to staff travelling on official work as well as cash remittances. While making use of the said company provided transport the employees had submitted bills seeking for reimbursement of conveyance expenses or out of pocket expenses at the rate of Rs.150/- per day which is illegal. Thus, they are wrong claims. Instead of initiating disciplinary proceedings for such wrong doing the bank decided only to recover the wrong payments made to them in easy instalments after communicating the same to them. But the union has raised an issue before the conciliation officer, but it could not be conciliated as

the employees made a false claim with full knowledge of their disentanglement. The contention that bank has no right to effect recoveries of wrong payments made belatedly is not correct as it is a minimum logical assumption that such things can be effected only upon finding such anomalies. There can not be any time limit for the same. Detailed submissions were made before conciliation officer by the bank. The contentions raised before the conciliation officer that,

- a. The said amounts were not incurred as expenses by the beneficiaries.
- b. The vehicle was provided by the bank
- c. No provision existed for payment of out of pocket expenses.
- d. Even when other banks/branches remitted cash to the Vadlapudi Branch, wherein no role of staff of Vadlapudi Branch was involved, then also amounts were paid to them.

The bank never made any alterations in service conditions of the employees during the pendency of the dispute as alleged in the petition. Bank has given prior notice and an opportunity of hearing to the employees before effecting the recovery. The information relating to the wrong claims together with the respective dates and amounts has been furnished. The same is more than sufficient to satisfy the employees about the wrong claims made by them and to effect recovery of the same. Employees are not eligible for anything wrongly claimed and it does not matter whether an officer who has passed the vouchers had seen it or not before signing the voucher since such things are done in good faith as they were also co-employees. When wrong claims are faced it is to be rectified. The bank being a public sector bank can not overlook such illegal payments. The Petitioner union can not make a flimsy allegation that the log book does not show details irrelevant. The log book will be maintained for the purpose of running the kilometres and consumption of fuel and also to note the details of people who were carried to which destination and for what purpose. The security and vigilance reports form part of privileged documents which can be used only by Management. The facts relating to the false claims were clearly mentioned and it can never be said that report was submitted behind the back of the employees. It is only a case of false claim and subsequent recovery from the individual employees and the petition is liable to be dismissed.

4. To substantiate the claim of the Petitioner WW1 and WW2 were examined and Ex. W1 to W7 were marked. By virtue of order dated 17.7.2013, the evidence of WW1 has been eschewed. On behalf of the Respondent Management MW1 was examined. No documents were marked for the Respondent Management.

5. Heard the arguments of either party. Written arguments were also filed by either party and the same are considered.

6. The points that arise for determination are:-

I. Whether the order passed by the Respondent Management ordering for recovery of amount in respect of the workmen S/Sri M.V. Sivaram, N.S.N. Raju and P. Chandra Rao on the ground of excess reimbursement /double expenses/ wrong payment is legal and justified?

II. To what relief the workmen are entitled to?

7. Point No. I:

It is an admitted fact that the Respondent Management ordered for recovery of the amounts as mentioned in the claim statement from the workmen concerned as described in the claim statement. It is also an admitted fact that the said amounts were recovered from the salaries of the respective workmen even after the dispute was raised by the Petitioner union before the conciliation officer.

8. It is the contention of the Petitioner that the said recovery is illegal and unjustified and that without giving prior notice and hearing to the concerned workmen the said recovery was effected arbitrarily. Whereas it is the contention of the Management that the said amounts were wrongly and without entitlement claimed and received by the concerned workmen and thus the recovery is justified and correct. It is also their contention that prior notice and hearing were accorded to the workmen.

9. Now, it is to be verified whether there is any prior notice and hearing. The prior notice given by the Management according to them are Ex.W2 to W4, i.e., the impugned orders, under which the recovery has been ordered. Thus, it can not be termed as a prior notice. This is the final order itself but, not a notice whereunder an opportunity has been accorded to the concerned workmen to explain/set out their defence/to state the reason why recovery shall not take place. There is no record to show that there has been prior hearing opportunity was provided to the workmen to state their contentions to the Disciplinary Authority / Management. Thus, it can clearly be seen that without providing any prior notice and prior hearing the Management has taken the decision to recover the amounts, claiming that they are wrong payments made to the workmen. This is certainly in clear violation of principles of natural justice and thus, it is an arbitrary and unjustified order.

10. It is the contention of the Management that there has been a van provided by the Respondent bank and thus, the workmen would not have incurred the expenditure and thus, there was no need for any reimbursement and in spite of it they claimed the reimbursement and got it and

thus, it is a wrong payment. But, inspite of specifically questioning MW1 regarding it and specific plea being raised by the Petitioner union in the claim statement, the particulars of the van said to have been provided by the bank are not given. Further, the Petitioner pressed for production of the log book but it is not produced. Reasons for non-production of the same and non-revealing of the particulars of the van are not given. Thus, it is to be deemed that the contentions of the Respondent Management that there has been a van provided and that it has been utilised by the workmen for discharging their official duties is not correct. Thus, the contention of the Respondent Management that the expenses were not actually incurred and there was no entitlement for the reimbursement is not correct.

11. It is an admitted fact that atleast two senior officers will be scrutinizing the vouchers and passing of the same before the reimbursement of the amounts be done in the bank. In such case if there is no entitlement at all for payment of out of pocket expenses, the reimbursement would not at all have been done. But in this case after due scrutiny the payments were made long prior to the ordering of the recovery. In such case the contentions of the Respondent bank that there is no entitlement at all and that out good faith the scrutiny officers have passed the vouchers is not an acceptable version. It is not the case of the Respondent bank that any action has been taken against the officers who scrutinized the vouchers and passed the same. Further, there is no answer for the contention of the Petitioner that there was regular audit of the bank accounts in each and every financial year by the officials of the Respondent bank and other statutory organizations and that the accounts finalised year after year and the Respective balance sheets for each financial year were also drawn by the bank and submitted to the RBI, for their scrutiny duly audited and certified by the auditors that every account is drawn as per the norms of the bank. In such case, how a security officer's report could point out the incorrectness of the reimbursement of the amounts of the workmen all of a sudden and after lapse of substantial period from the dates of reimbursement is a question which shall be answered and explained to the workmen. The security officer's report which lead to the recovery must be revealed to the affected workmen as they are entitled to know the reason why the recovery was ordered. But it was not done and the workmen are kept in dark.

12. In view of the fore gone discussion, it can clearly be seen that the impugned orders dated 19.9.2003 are arbitrary, unjust and are in violation of principles of natural justice and they are to be set aside.

This point is answered accordingly.

13. Point No.II:

In view of the finding given in point No.I above, the recovery of the amounts made by the Respondent

Management from the respective salary of the workmen herein is not at all justified and thus, the said amount shall be refunded to the workmen by the Respondent Management with interest at the rate of 6% per annum from the date of recovery to the date of refund.

This point is answered accordingly.

Result :

In the result the reference is answered as follows:

The action of the Management of the Bank of Baroda, Regional Office, A.P. / Management in ordering recovery of amount in respect of the workmen, S/Sri M.V. Sivaram, N.S.N. Raju and P. Chandra Rao on the ground of excess reimbursement/ double expenses/wrong payment is neither legal nor justified. Thus, the said orders dated 19.9.2003 are hereby set aside. These three workmen shall be refunded with the amounts recovered from their respective salaries together with interest at the rate of 6% per annum from the date of recovery to the date of refund.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

| Witnesses examined for the Petitioner | Witnesses examined for the Respondent |
|------------------------------------------|------------------------------------------|
| WW1: Sri P. Chandra Rao (eschewed) | MW1: Sri B. Priya Kumar |
| WW2: Sri V. Rama Krishna | |

Documents marked for the Petitioner

| | |
|--------|----------------------------------------------------------------------------|
| Ex.W1: | Photostat copy of Ir. No.7/11/2003-ALC dt.22.12.2003 |
| Ex.W2: | Photostat copy of Respondent bank's Ir. to Sri M V Sivaram dt.19.9.2003 |
| Ex.W3: | Photostat copy of Respondent bank's Ir. to Sri N.S.N. Raju dt.19.9.2003 |
| Ex.W4: | Photostat copy of Respondent bank's Ir. to Sri P.C. Rao dt.19.9.2003 |

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अक्टूबर, 2014

का.आ. 2718.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दक्षिण रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चैन्नई के पंचाट (संदर्भ संख्या 54/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08-10-2014 को प्राप्त हुआ था।

[सं. एल-41011/51/2014-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th October, 2014

S.O. 2718.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Southern Railway and their workmen, received by the Central Government on 08/10/2014.

[No. L-41011/51/2014-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 17th September, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 54/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Southern Railway and Railway Employees Coop. Credit Society Ltd. and their workman)

BETWEEN

The General Secretary : 1st Party/Petitioner
Railway Employee's Union
Co-op. Society Staff Union
2/30, Lettangs Road, Vepery
Chennai-600007

AND

1. The General Manager : 2nd Party/
Southern Railway 1st Respondent
Chennai-600002
2. The Chief Executive : 2nd Party/
The Railway Employees 2nd Respondent
Coop. Credit Society Ltd.
Ashok Vihar Complex,
Old Zoo Road
Chennai-600007

Appearance:

For the 1st Party/ : M/s D. Nagasaila, Advocates
Petitioner Union
For the 2nd Party/ : Set Ex-parte
1st Respondent
For the 2nd Party/ : Sri C.K. Chandrasekhar,
2nd Respondent Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-41011/51/2014-IR (B.I) dated 03.07.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the demand of the RECSS Union in restoration of medical treatment facility in Railway Hospital arising out of change of bye-laws of the Society is legal and justified? If so, to what relief the Union is entitled?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 54/2014 and issued notices to both sides. Both sides have entered appearance through their counsel.

3. The case was posted for filing Claim Statement. However, without filing Claim Statement, the counsel for the petitioner has filed a memo stating that the petitioner is not proceeding with the matter and the ID is to be closed. It is stated in the memo that the petitioner is seeking to close the matter since this Tribunal has no jurisdiction to adjudicate the matter.

4. On the basis of memo filed on behalf of the petitioner, the ID is closed.

An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th September, 2014)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2nd Party/1st and 2nd Management : None

Documents Marked:

On the petitioner's side

| Ex.No. | Date | Description |
|--------|------|-------------|
| | Nil | |

On the Management's side

| Ex.No. | Date | Description |
|--------|------|-------------|
| | Nil | |

नई दिल्ली, 10 अक्टूबर, 2014

का.आ. 2719.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 9/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 08-10-2014 को प्राप्त हुआ था।

[सं. एल-12011/38/2009-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th October, 2014

S.O. 2719.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 9/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 08/10/2014.

[No. L-12011/38/2009-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/9/2010

PRESIDING OFFICER : SHRIR.B.PATLE

General Secretary,
Dainik Vetan Bhogi Karmchhari
Sangathan, F-1, Tripti Vihar,
Opp Engg. College,
Ujjain.....Workman/Union

Versus

Dy. General Manager,
State Bank of India,
Zonal Office,
Vijay Nagar, JabalpurManagement

AWARD

Passed on this 15th day of September 2014

1 As per letter dated 7-1-10 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/38/2009-IR(B-I). The dispute under reference relates to:

“Whether the demand of the General Secretary, Dainik Vetan Bhogi Karmchhari Sangathan, Ujjain for regularization of services of Shri Dilip Chohtel, sweeper/ Messenger of SBI, City Branch, Jabalpur from 1-6-07 is fair, legal and justified? If yes, what relief the workman is entitled to?”

2 After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 1 to 5. Case of workman is that he was engaged on daily wages as sweeper from 1-6-07. He was paid wages Rs. 50, 70 per day. His name was entered in muster roll. He was working 8 hours every day. He was paid bonus. He completed 240 days continuous service. During pendency of conciliation proceedings, his services were terminated

in violation of Section 25-F, 33 of I.D.Act. he further submits that city branch building is of 7000 sq.ft. the building has 3 floors. He was continuously working for more than 240 days as such he acquired status of regular employee under Section 25 B of I.D.Act. On such ground, he prays for regularisation in service.

3. IInd party filed Written Statement . Preliminary objection is raised that Union Representative Shri Ram Nagwanshi was dismissed from service, he is not competent to represent workman. Workman was engaged on daily wages on contract basis during July 2007 to 31-10-08 for 185 days. The engagement of workman on daily wages was ending at end of the day. His discontinuation doesnot amount to be retrenchment under Section 2(oo) of I.D.Act. it is covered under Section 2(oo)(bb) of I.D.Act. IInd party reiterates that workman had not completed 240 days continuous service. He is not entitled to regularisation. He was not appointed following selection procedure. IInd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| (i) Whether the demand of the General Secretary, Dainik Vetan Bhogi Karmchhari Sangathan, Ujjain for regularization of services of Shri Dilip Chohtel , sweeper/ Messenger of SBI, City Branch, Jabalpur from 1-6-07 is fair, legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?” | Relief prayed by workman is rejected. |

REASONS

5. Workman is claiming regularisation in service of IInd party as sweeper/messenger from 1-6-07. IInd party had denied claim of workman. It is submitted that workman was engaged on daily wages by Branch Manager. He not completed 240 days continuous service. Workman is not entitled for regularisation.

6. Workman filed affidavit of his evidence covering his contentions in statement of claim that he was engaged on daily wages from 1-6-07. Wages were paid to him at Rs.50, 70, 80, per day- 6 days in a week. He was also paid wages in name of Pradeep and Vineet. In his further evidence, workman says that copy of muster roll paper No.31 was given to him by Shri J.P.Nema. In his cross-examination workman says he has no knowledge about recruitment rules, the post was not advertised, he was not interviewed. Appointment letter was not given to him. He was engaged by Branch Manager because of his

acquittance. He was supplying drinking water, he was doing work of messengers. He continuously worked from May 07 to Jan-09. He was member of Union from May 97. He has not produced documents about his Union membership. He denied that he was working part time. Management's witness Mahesh Kumar Rathore supported contentions of IInd party that workman was engaged on daily wages at Rs.30, 40 per day. Workman had worked for total 185 days. He not completed 240 days continuous service. In his cross-examination management witness says during 2007 to 09, he was not working in the City Branch. Name of workman was not sponsored by Employment Exchange. Workman was not interviewed. Appointment letter was not given to workman. He claimed ignorance whether wages were paid to workman by Bankers cheque. Witness of management also claims ignorance about document Page 154. He denies that said document bears signature of Branch Manager.

7. The legality of termination of workman is decided in R/10/10, terms of present reference relates to claim for regularisation of workman. Workman was not appointed after following selection process. He was engaged on daily wages. Any rule or scheme is not produced on record conferring right on workman for regularisation. In absence of such scheme or rule, claim cannot be allowed. For above reasons, I record my finding in Point No.1 in Negative.

8. In the result, award is passed as under:-

- (1) The demand of the General Secretary, Dainik Vetan Bhogi Karmchari Sangathan, Ujjain for regularization of services of Shri Dilip Chohtel, sweeper/Messenger of SBI, City Branch, Jabalpur from 1-6-07 is not proper.
- (2) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 2014

का.आ. 2720.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 273/89) को प्रकाशित करती है जो केन्द्रीय सरकार को 08-10-2014 को प्राप्त हुआ था।

[सं. एल-17012/23/88-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th October, 2014

S.O. 2720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 273/89) of the Cent. Govt. Indus. Tribunal-cum-Labour Court,

Jabalpur as shown in the Annexure, in the industrial dispute between the management of Life Insurance Corporation of India and their workmen, received by the Central Government on 08/10/2014.

[No. L-17012/23/88-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/273/89

PRESIDING OFFICER : SHRI R.B.PATLE

Shri shital Prasad,
S/o Shri Nathu Ram
Bheem Ward, Chhotti Bazaria,
Distt. Bina, Jabalpur

.....Workman

Versus

Divisional Manager,
Life Insurance Corporation of India,
Deevan Prakash,
Jabalpur Divisional Office,
Madan Mahal, Jabalpur

.....Management

AWARD

Passed on this 22nd day of September 2014

1. As per letter dated 15-12-89 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-17012/23/88-IR(B-I). The dispute under reference relates to:

“Whether action of the management of LIC of India, Jabalpur in terminating of services of Shri Shital Prasad, S/o Shri Nathu Ram, Sub staff from 28-3-88 without any compensation under the provisions of the Industrial Disputes Act, 1947 is justified? if not, to what relief the workman concerned is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/4. Case of workman is that he is resident of Bina. He has passed HSc..In October 1985, he got knowledge about vacant post of peon in LIC. He submitted application to Branch Manager his application was accepted. He was permitted to work in LIC office Bina Branch. That he worked from 30-10-85 to 28-3-87. Thereafter he was temporarily stopped working. Again he was permitted to work from 16-4-87 to 10-7-87, 26-12-87 to 28-3-88. That he was paid basic salary Rs.430 plus DA. He was also paid bonus 15 % for 86-87. Workman submits that he was in continuous employment from

30-10-85 to 28-3-87. His services were terminated on 28-3-88. In violation of Section 25-F of I.D.Act. That he was in continuous service for more than one year. He was not served with notice for termination of his service. Any chargesheet was not issued to him. His services are orally terminated in violation of Section 25-F of I.D.Act. His services were not regularized. On such ground workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 5/1 to 5/8. IInd party denied claim of workman for reinstatement with back wages. That claim of workman is misconceived. It is submitted that various association of Class III, IV employees working in LIC raised issues regarding quantum of wages to be paid to Badli temporary part time employees. The issue was referred by Govt. of India to National Industrial Tribunal presided over by Justice R.D.Turbule on 28-5-85. The issue related to what would be the wages and other conditions of service of part time workman of LIC as well as the conditions of their absorption in regular cadre. That NIT issued interim order dated 15-1-86 directing that no temporary employees of the corporation be removed till Tribunal gives the final award provided he gives undertaking that no benefit on his behalf would be claimed. If he continue in position for a period of more than 85 days. Interim order is reproduced.

4. IInd party further submits that National Tribunal passed final award on 17-4-86 published in gazette on 7-6-86. Tribunal laid down period 1-1-82 to 28-5-85 as cut off date. The temporary employees who were within said period for specified number of days were to be covered by provisions of the award. Temporary employees in Class III whether Assistant or typist who had put in 85 days worked in 2 calendar year, Class IV-70 days in 3 calendar years within the cut off date were eligible for absorption if they are covered within the cut off date. IInd party has contented that there was controversy about the award passed by National Tribunal. Matter was taken up before Hon'ble Apex Court. IInd party further submits that as per the agreement, workman had failed to submit application for absorption till 7-7-1986. Consequently services of workman were terminated. All other contentions of workman that he completed 240 days continuous service, he was entitled for regularization/absorption are denied. It is denied that services of workman were terminated in violation of Section 25-F of I.D.Act. On such ground, IInd party prays for rejection of claim.

5. Considering pleadings and all aspects, award was passed by my predecessor on 18-4-95 against workman. Said award was challenged by workman in Writ petition No. 2380/96. Hon'ble High Court vide judgment dated 28-7-08, set aside the award passed by my predecessor and remanded the matter to this Tribunal for adjudication on merit.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| (i) Whether action of the management of LIC of India, Jabalpur in terminating of services of Shri Shital Prasad, S/o Shri Nathu Ram, Sub staff from 28-3-88 without any compensation under the provisions of the Industrial Disputes Act, 1947 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. Workman is challenging termination of his service from 28-3-88 for violation of Section 25-F of I.D.Act. The claim of workman is opposed only on the ground that the matter of service conditions and wages of Badli part time workman was referred to NIT. The interim direction was issued not to terminate services of part time Badli workman till decision of award. Final award was passed. However matter was challenged before Apex Court. Union and management settled compromise before Apex Court. Workman has not completed application for absorption within prescribed time limit.

8. Workman filed affidavit supporting his contentions in statement of claim. He was engaged by management on 30-10-85 to 28-3-88. He was paid basic salary Rs.430 per month along with DA. He was paid 15% bonus for 86-87. He completed 240 days continuous service. His services were terminated in violation of Section 25-F of I.D.Act. In his cross-examination, workman claims ignorance about the rules for recruitment in LIC. He was engaged as casual worker by IInd party. At the instance of Union, rules for regularization of casual part time employees, the reference was made to National Tribunal. He claims ignorance about the award passed by National Tribunal. He had not submitted application in prescribed time. He denies that he not completed 240 days working.

9. Management witness Shri Tirath Kumar Shrivastava filed affidavit of evidence supporting contentions of the management. As per evidence of management's witness, final award was passed by NIT on 7-7-86. Interim award was passed on 17-4-86. Final award challenged before Apex Court was compromised. Workman had not submitted application for absorption till 6-3-87. Therefore he was not considered for absorption. In his cross-examination, management witness says he submitted affidavit of evidence as per record. He was unable to tell the date of appointment and the period of working of workman. However he denied suggestion that workman completed 240 days working. Workman was not issued notice,

retrenchment compensation was not paid to him before termination of his service.

10. Parties are not in dispute about interim award and final award passed by National Tribunal. As per interim award, the period of working protected by interim award was not considered. Copy of interim award is produced R-I. Relevant portion of interim award reads as under.

“The employees continues in position for a period more than 85 days. The Unions are agreeable and the workman concerned shall give an undertaking that they would not claim any benefit on account of such continuation for a period more than 85 days if it occurs, of absorption of any other benefit subject to that he may be continued.”

In present case, the interim award was passed on 15-1-86. Workman was working in IInd party prior to it i.e. from 30-10-85. He had already completed more than 85 days. Management has not produced any documents about undertaking given by workman in pursuance of the interim award. The evidence of workman that he was working with IInd party from 30-10-85 till 28-3-88 with intermittent break is not settled. The terms of compromise settled before Hon'ble Apex Court are produced at R-3. It clearly provides casual badly part time employees working 85 days in 2 years during the period 1-1-82 to 20-5-85 were to be considered for absorption on submitting application within prescribed period. Workman has not submitted application during prescribed period therefore he cannot claim benefit for his absorption.

11. The terms of reference donot relate to absorption of workman as per compromise settled before Apex Court, the reference relates to legality of termination of workman. Workman had worked more than 2 ½ years. His services were terminated without notice, he was not paid retrenchment compensation. Thus termination of service of workman is illegal for violation of Section 25-F of I.D.Act. For above reasons, I record my finding in Point No.1 in Negative.

12. Point No.2- in view of my finding in Point No.1, the termination of services of workman is in violation of Section 25-F of I.D.Act, question arises whether he is entitled for reinstatement with back wages. Evidence of workman shows that he was engaged on casual basis, he was not appointed following recruitment rules. Learned counsel for management Shri P.K.Tripathi submits that workman is not entitled to reinstatement. Reliance is placed on ratio held in

“Case of Hari Nandan Prasad versus FCI reported in AIR 2014 SC-1848. Their Lordship held daily wagers who worked for 3 years is not entitled for reinstatement. Their Lordship further held that mere long service as daily wagger cannot be basis for directing regularization.”

Considering the ratio held in above case, workman cannot be allowed reinstatement with back wages. Considering the dispute pending since 1989, workman is out of employment, the workman was working for about 2 ½ years, compensation Rs. 75,000/- would be reasonable. Accordingly I record my finding in Point No.2.

13. In the result, award is passed as under:-

- (1) The action of the management of LIC of India, Jabalpur in terminating of services of Shri shital Prasad, S/o Shri Nathu Ram, Sub staff from 28-3-88 is not legal.
- (2) IInd party is directed to pay compensation Rs. 75,000 to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 2014

का.आ. 2721.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 17/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 08-10-2014 को प्राप्त हुआ था।

[सं. एल-12012/203/96-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th October, 2014

S.O. 2721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/98) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore Merged State Bank of India and their workmen, received by the Central Government on 08/10/2014.

[No. L-12012/203/96-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/17/98

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Ram Nagwanshi,

General Secretary,

All India State Bank of Indore Employees Congress,

Sanwer Road, Ujjain

.....Workman/Union

Versus

General Manager (Operations),
State Bank of Indore,
Merged as State Bank of India
Local Head Office,
Hoshangabad Road,
Bhopal

.....Management

AWARD

Passed on this 15th day of September 2014

1. As per letter dated 13-1-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/203/96-IR(B). The dispute under reference relates to:

“Whether the action of the management of Regional Office, Bank of India in not paying Shri S.R.Prajapati, Rajgarh subsistence allowance after 2-9-92 before completion of enquiry not granting annual increment is justified and legal? If not, to what relief the concerned workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 2/1 to 2/3. Case of Ist party Union is that workman Shri S.R.Prajapati was working as Head clerk at State Bank of Indore, Rajgarh, Distt. Dhar. That on 4-8-92, due to negligence of Bank Manager Hemand Phadke, saving account ledger keeper Shri Meena, Head Cashier Shri Rathore and Daftary, fraud of Rs. 20,000/- was committed. Management wanted to protect those employees. Ist party workman had informed about said fraud to Regional Office. Regional Manager Shri K.G.Baheti has visited branch on 18-8-92. Manager was scolded why information about fraud of Rs. 20,000/- was not given to him. There were also talks that amount of Rs.20,000 involved in the fraud should be deposited by contributing from all employees. Workman had opposed for it. It is submitted that workman was suspended without any notice. That higher officer of the management had received letter of threat of their life. Said incident was reported to police after one month. Workman was suspended. Enquiry was not conducted against him. Reports submitted to police was silent about involvement of the workman. Workman was entitled for subsistence allowance as per bipartite settlement dated 8-9-93. Workman was not paid full subsistence allowance after period of one year. The proceeding under Section 33(C) for recovery of amount was pending.

3. It is further submitted that the employees suspended were paid arrears of subsistence allowance at revised rates. Mr. Chandrashekhar Mehendle, Shri Balwant Singh Gaur and Shri Sunalkumar Mukati. The workman was not paid revised subsistence allowance.

4. IInd party submitted Written Statement at Page 3/1 to 3/2. Case of IInd party is amount of fraud of Rs.20,000/- was committed on 4-8-92 w.r.t. account of Shri Pathak at Rajgarh branch. The amount was dishonestly withdrawn in collusion with one Hiralal. The payment voucher was missing. Workman was suspended from 4-9-92. DE was initiated against him. Workman is also prosecuted for offence under Section 420, 109, 201, 34 of IPC. As per Para19.4 of settlement dated 19-10-66, the enquiry was stayed. Criminal case was prosecuted against workman about giving threats to the officers of the Bank. Chalan was submitted in Court under section 506/507 of IPC. Workman is paid subsistence allowance as per settlement dated 8-9-83. The chargesheet is submitted in Criminal Court against workman. Criminal case is pending against him. Workman is not entitled to arrears of subsistence allowance claimed by him.

5. Workman filed rejoinder at Page 4/1 to 4/6 reiterating its contentions in statement of claim. Chargesheet was issued to him without substance. Revised subsistence allowance was not aid to him. Enquiry was deliberately prolonged by appointing different Enquiry officers, Presenting Officers. The request of workman not to change Enquiry Officer, presenting Officer was not considered.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| (i) Whether the action of the management of Regional Office, Bank of India in not paying Shri S.R.Prajapati, Rajgarh subsistence allowance after 2-9-92 before completion of enquiry not granting annual increment is justified and legal. | In Affirmative |
| (ii) If so, to what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

7. Statement of claim filed by workman is signed only by Shri Ram Nagwanshi claiming to be General Secretary of Union. Any objection was not raised on above point at the time of argument. Therefore I donot consider it appropriate to make comments about locus-standi of Union regarding Ram Nagwanshi. Claim of workman for revised claim of subsistence allowance has been denied. It is submitted that criminal case prosecuted against workman is pending. Enquiry was conducted as per Clause 19.5 of settlement. In above context, the Union Representative submitted in writing that the documents are produced. Workman does not desire to adduce any evidence. Thus claim of workman is not supported by his

evidence. The documents produced by workman alongwith list Page 4/7 are not admitted by IInd party. The documents are not proved by the workman. Therefore it would not be appropriate to allow claim of workman on said documents. Particularly P-13 relates to payment of subsistence allowance and reference of ratio held in case of Umesh Chandra Mishra versus Union of India. Relevant portion has been reproduced on the facts and circumstances of the case therefore we set aside the order of the Tribunal and direct the respondents to pay the appellant the following amounts. Subsistence allowance (i) from 20-11-75 to 19-5-76 @ 50 % of the salary. Claim of workman has made out from statement of claim pertains to non-payment of the revised subsistence allowance. The statement of claim is silent how much subsistence allowance was paid to him and how much amount is due against IInd party. As stated above, claim of workman is not supported by any evidence. The documents are not admitted. IInd party denied claim of workman. The workman has not produced documents about revised rates of subsistence allowance payable to him. In absence of such documents, I record my finding in Point No.1 in Negative.

8. In the result, award is passed as under:-

- (1) The action of the management of Regional Office, Bank of India in not paying Shri S.R.Prajapati, Rajgarh subsistence allowance after 2-9-92 before completion of enquiry not granting annual increment is legal and proper.
- (2) Workman is not entitled to relief claimed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 2014

का.आ. 2722.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 10/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 08-10-2014 को प्राप्त हुआ था।

[सं. एल-12011/41/2009-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th October, 2014

S.O. 2722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 08/10/2014.

[No. L-12011/41/2009-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/10/2010

PRESIDING OFFICER: SHRI R.B.PATLE

General Secretary,
Dainik Vetan Bhogi Karmchari
Sangathan, F-1, Tripti Vihar,
Opp Engg. College,
Ujjain

...Workman/Union

Versus

Dy.General Manager,
State Bank of India,
Zonal Office,
Vijay Nagar, Jabalpur

...Management

AWARD

Passed on this 15th day of September, 2014

1. As per letter dated 11-1-2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/41/2009-IR(B-I).The dispute under reference relates to:

“Whether the demand of the General Secretary, Dainik Vetan Bhogi Karmchari Sangathan, Ujjain in reinstating Shri Dilip Chohtel , sweeper/ Messenger in service w.e.f. 9-1-09 is fair, legal and justified? If yes, what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 1 to 5. Case of workman is that he was working as sweeper in IInd party Bank after promotion of sweeper Shri Satwan Singh from May 2007. The branch premises of 7000 sq.ft, 3 storied building. For its cleaning and sweeping, workman was engaged from 1-6-07 by Branch Manager Nema. He was working from 9.30 AM to 2 PM and 5 PM till closure of Bank. He was paid Rs.50/- per day. He was engaged orally. The wages were increased to Rs.70/- per day. The payment was made from petty cash under payment voucher, muster roll was maintained. He was also paid wages in name of Shri Pradeep from 1-11-08 and from 16-12-08 in name of Pradeep and Vineet. He completed 240 days continuous service. He was also paid bonus arrears. His services are terminated during pendency of conciliation proceedings in violation of Section 33, 25-F.

3. Workman submits that he was paid bonus Rs.1286/-, 1086/- for 2007-08, 08-09 respectively. Though he

completed 240 days continuous service, his services were terminated in violation of Section 25-F of I.D.Act. he was not issued notice. Notice pay was not paid to him. On such ground, workman prays for his reinstatement.

4. IInd party filed Written Statement denying claim of workman. Objection is raised that Union representative Shri Ram Nagwanshi was dismissed from service of Bank. He is not competent to represent workman. That workman was engaged on contract basis for sweeping work in City Branch, Jabalpur. He worked for 185 days in 2007-08. Workman was engaged on daily wage basis. His services used to end at end of the day. His discontinuation is not retrenchment. Workman was not appointed by the bank following selection process. Workman was not continuously working. He has not completed 240 days continuous service preceding 12 months. Workman was doing cleaning work for two hours. He is not entitled for reinstatement. There is no violation of Section 25-F of I.D.Act. Workman was paid wages for his working days. On such ground, IInd party prays for rejection of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| (i) Whether the demand of the General Secretary, Dainik Vetan Bhogi Karmchari Sangathan, Ujjain in reinstating Shri Dilip Chohtel, sweeper/ Messenger in service w.e.f. 9-1-09 is fair, legal and justified? | Partly in Affirmative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Workman is submitting that he was regularly working with IInd party doing cleaning work. He completed 240 days service. His services are terminated in violation of Section 25-F of I.D.Act. He was not paid retrenchment compensation. Above all contentions of workman are denied by IInd party.

7. Workman filed affidavit covering his contentions. He was engaged for sweeping work, cleaning work from 1-6-07. He was paid wages Rs. 50, 50, 80 per day. For some period he was paid wages in different names. He was paid bonus Rs. 1286/- on 9-7-09, 1086 on 9-6-09. In his cross-examination, workman says post was not advertised, he was not interviewed, appointment letter was not given to him. He was engaged on the work because of his acquaintance with Branch Manager. He is member of Union. He reiterates that he was continuously working. He denies that he was working for 2 hours only.

8. Management filed affidavit of witness Shri Mukesh Kumar supporting contentions in Written Statement filed by management that workman was engaged for cleaning, sweeping work from 1-6-07 to 31-10-08. Wages were paid Rs. 30,40 per day. Workman had worked for 185 days in the Bank. He not completed 240ays continuous service. Section 25-F of I.D.Act was not violated. Branch manager was apprised to engage persons for specific task on daily wages. In his cross-examination management witness says his affidavit is based on documents. Those documents are not produced on record. The witness of management was not working in the branch during 2007 to 09. Witness of management had not discussed with other Branch Managers about the services of Ist party workman. Thus witness of the management has no personal knowledge. Documents on which his affidavit is based are not produced. The attendance register of workman was not maintained. The denial by management's witness that workman had not completed 240 days service is not supported by documents.

9. So far as evidence of workman, his evidence is supported by documents Exhibit W-2 payment vouchers at Sl. No. 7 to 21. The amount of wages was paid to workman at different time. Exhibit W-3 shows payment of wages to workman on various dates. Exhibit W-4 is notice issued by ALC, W-5 is payment vouchers about wages paid to the workman. Thus evidence of workman is corroborated by documents. Evidence of management's witness is not supported by documents. Witness of management has no personal knowledge about working days of workman as he was not posted in the branch at the relevant period. Therefore evidence of workman deserves to be accepted. It is proved from evidence of workman and documents on record that workman was working in IInd party as sweeper from 1-6-07 till discontinuation of his services. No documents are produced on record that workman was only working for two hours in the branch. The suggestions in that regard are denied by the workman. Evidence is sufficient to hold that workman was working more than 240 days preceding the termination of his services. He was not served notice, retrenchment compensation was not paid to him. Thus termination of service of workman is in violation of Section 25-F of I.D.Act. however workman was engaged on daily wages. He was not appointed following conciliation process. Therefore workman is not entitled for reinstatement. For above reasons, I record my finding on Point No.1 partly in Negative.

10. Point No.2- as per my findings in Point No.1, termination of service of workman is in violation of Section 25-F the workman was working in the branch from 1-6-07 till 9-1-09. Considering the period of working and he was engaged on daily wages, his services were terminated in violation of Section 25-F of I.D.Act, reasonable compensation would be justified. In my

considered view, compensation Rs. 50,000/- would be reasonable. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:-

- (1) The demand of the General Secretary, Dainik Vetan Bhogi Karmchari Sangathan, Ujjain in reinstating Shri Dilip Chohtel, sweeper/ Messenger in service w.e.f. 9-1-09 is proper.
- (2) IInd party is directed to pay compensation Rs.50,000/- to the workman Shri Dilip Chohtel.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 2014

का.आ. 2723.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 28/78) को प्रकाशित करती है जो केन्द्रीय सरकार को 01-10-2014 को प्राप्त हुआ था।

[सं. एल-12012/128/76-डी (IIA)-आईआर (बी-I)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th October, 2014

S.O. 2723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/78) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/10/2014.

[No. L-12012/128/76-D (IIA)-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/28/78

PRESIDING OFFICER : SHRI R.B.PATLE

Assistant Secretary,
State Bank of India &
Subsidiary Bank Employees Union,
C/o SBI, Bhopal

....Workman/Union

Versus

The Regional Manager,
Region-I, State Bank of India,
Local Head Office, Hamidia Road,
Bhopal

....Management

AWARD

Passed on this 28th day of March, 2013

1. As per letter dated 23-26/5/1978 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/128/76-D(IIA) . The dispute under reference relates to:

“Whether the action of the management of the State bank of India Local Head Office, Bhopal in dismissing Shri B.K.Unde official-in-charge, Jawar Sub Office, Ashta Branch of the Bank w.e.f. 27-8-75 is justified? If not to what relief is the workman entitled?”

2. After receipt of reference notice were issued to the parties. Ist party workman submitted Statement of claim at Page 6 to 13 of the record. The case of Ist party workman is that he was appointed as clerk in city branch on 1-1-56. Since his appointment, he was doing duties honestly and efficiently, his work was appreciated by the higher authorities. That there was no warning or chargesheet or any other adverse remark against him. He was working at Jawar Sub office of Ashta Branch of State Bank of India in 1971. That he was put incharge of recovery and he was extremely busy during February to May 1971. He claims to be overworked and under staffed during this period. That from 5-6-71 to 4-7-71, he was on leave.

3. It is submitted that Shri A.P.Khunte cashier at Ashta Brach was served with chargesheet. Ist party workman B.K. Unde had took active interest in the case of Shri Khunte. It is annoyed by Bank Manager Shri P.K. Jain. During the period workman was on leave, Branch Manager Shri P.K. Jain with the help of cashier incharge Shri K.R. Khan tried to manufacture cases against Shri Unde and got complaints and letters etc. written against workman. On his return from leave workman reported some mistake committed by Shri Mohanlal and Shri Khan on 5-7-71 which was annoyed by Branch Manager Mr. Jain. Workman was suspended on 23-7-71. According to Ist party, the suspension was contrary to the provisions of Shastri and Desai Award. It is further submitted that no chargesheet was given, suspension order was issued prior to chargesheet. It is illegal, arbitrary. For more than a year, no chargesheet was given to the workman. He submitted that Union believes that documents and evidence were being manufactured against workman by interested persons. If there was any serious or substantial allegation against the workman there was no reason why a chargesheet could not issued immediately.

It is submitted that workman was kept under suspension to create evidence and to destroy relevant documents. It is alleged that there was intention somehow to punish workman as some persons were annoyed with him. Chargesheet was given to him on 15-9-1972. Chargesheet was not accompanied with list of witnesses, list of documents relied by management. Copies of statement of witnesses taken, copies of the relevant documents were supplied with the chargesheet. Workman in his reply dated 25-9-72 informed management that since the chargesheet contains 13 charges covering several transactions in the sub office, the workman was unable to submit detail explanation in absence of access to books, ledgers, daily statements etc. However he denied the allegations against him.

4. Ist party workman submits that enquiry was not started till 23-9-1974. The enquiry started on that day with questioning of workman. The defence had submitted objection contending that he had given letter for inspection of documents and supply of documents as he had requested that all necessary documents be submitted before the enquiry proceeds. It is alleged that Branch Manager, Shri P.K.Jain made false statement before the Enquiry Officer that the documents were shown in the presence of field officer Shri A.B.Yadav who had denied it. That it is alleged that without giving the workman sufficient opportunity to prepare the Defence Enquiry was conducted. The Enquiry Officer acted as prosecutor helping management by asking leading questions.

5. Ist party workman further submits that vide letter dated 19-10-1972, he had requested for copies of statements of the prosecution witnesses. His request was refused by management as per Letter dated 7-12-71 and again on 3-4-74. The copies of statements of Munna Khan and Gangaram were not supplied to him. He suffered prejudice in defence. There was no justification in denying copy of statement of witnesses.

6. Ist party workman submits that enquiry held against him is illegal as list of witnesses, documents, copies of statements of witnesses were not supplied to him. Approach of Enquiry Officer was biased. He was acting as prosecutor asking leading questions to the witnesses. Ist party was not allowed inspection of record for his defence. That 7 witnesses Shri R.P.Sarothia, Ramesh Sharma, Om Prakash Jain, Nutankumar Jain, A.P.Khunte, Atmaram Durghe and Mishrilal Ajmera were not examined in the enquiry. Ist party workman was refused opportunity to examine witness V.M.T.Joshi and P.C.Sharma inspite of his written request dated 24-9-94 and letter dated 25-9-94. That Enquiry Officer did not inform on 25-9-94 that the evidence of the prosecution was closed and the workman may examine himself and defence witness. It is alleged that Enquiry Officer without justification refused to examine defence witness. That Mohanlal Messenger was the most important witnesses

in the case, he was not examined. Non-examination of such witness has prejudiced the defence. It is alleged that findings of Enquiry Officer are perverse, without giving opportunity Enquiry Officer drawn adverse inference. That evidence of hostile witnesses to the workman is relied upon the Enquiry Officer. The proceedings were not correctly recorded. That destruction of record between the period of suspension and enquiry caused prejudice. That Enquiry Officer couldnot find workman guilty of some of the misconducts alleged against him. Inspite of it, management held him guilty for all the misconducts. After declaration of emergency in June 1975, services of Ist party were terminated on 17-8-75. It is alleged that termination of service of Ist party workman is by way of victimization. On above contentions, Ist party workman prays for his reinstatement with full back wages and other all consequential benefits.

7. IInd party filed Written Statement at Page 2 to 5 of the record. All material allegations of Ist party workman are denied in the Written Statement by IInd party. It is submitted that workman was suspended from 23-7-91 on allegations of fraudulent acts. After thorough probe into the matter, the picture become clear about fraudulent acts committed by workman, then chargesheet was issued on 15-9-72. The explanation submitted by workman was not found satisfactory Therefore Departmental enquiry was initiated. By amendment, IInd party contended that workman is not covered as workman under I.D.Act. He was receiving wages more than Rs.500/- per month. Shri B.K.Unde was supervisory work so as to administer, control, conduct and control of the affairs including the staff and other matters pertaining to the sub office Jawar that the present reference is not tenable in this Tribunal.

8. IInd party further submitted that the enquiry could not be conducted earlier due to adjournments of enquiry on several occasions at the instance of the defence counsel and for collection of a number of witnesses including outsiders. That enquiry Officer could not submit his report till 21-2-1975 as the Presenting Officer and Defence Counsel both by submitting their written arguments, the defence counsel submitted extensive written arguments (63 pages). The Enquiry Officer was also required to attend his daily duties being Regional Manager time required to carefully peruse the voluminous enquiry proceedings. The Enquiry Report was submitted after considering the evidence. Showcause notice was issued to workman on 16-6-75. Reply was given to showcause notice, the workman accepted his guilt and pleaded for mercy. It is submitted that workman was given proper opportunity for his defence. Principles of natural justice were followed. The order of dismissal was challenged by workman. His appeal was dismissed after due consideration. It is further submitted that Bank is a credit institution and its employees enjoys fiduciary position. As a credit institution, the Bank has primarily to deal

with money matters and other documents relating to payments and receipts of money etc. In this case, Bank has sufficient ground to lose faith. Applicant Shri B.K.Unde has no case for warranting reconsideration by this Tribunal. It is further submitted that if it is found that enquiry proceedings are defective, IInd party prayed to lead evidence for proving his misconduct.

9. The amendment in Written Statement of IInd party contends that Ist party workman is not covered as workman under I.D.Act. It is denied by Ist party filing reply annexed with the rejoinder. In his rejoinder filed at Page 15 to 17, Ist party retreats his earlier contentions that enquiry conducted against him is not fair and proper. That chargesheet was not immediately issued for fabricating witnesses and evidence. It is submitted that Enquiry Officer was committed to hold him guilty and it was the reason for submitting his report after long delay. That while giving reply to show cause notice, workman was advised by interested parties if he gives reply on the lines suggested to him, management will not take serious action. However he has not admitted the guilt as alleged. He was defending charges against him. That punishment imposed against him is contrary to Shastri/Desai Award. The enquiry was not correctly recorded. That enquiry proceedings was not produced which would show the correct state of affairs. It is submitted that contention of management about loss of faith as held by the Hon'ble Supreme Court in the case of Michel John is out dated and not applicable in the present case. Ist party retreated his claim for reinstatement with back wages.

10. Management filed rejoinder at Page 18 to 23. The contention of IInd party in his Written Statement are retreated. It is denied that Ist party workman was discharging his duties honestly with devotion. It is denied that workman was overloaded due to shortage of staff. It is submitted that Mr. Unde was suspended much prior to Mr. Khunte was chargesheeted. The allegation of manufacturing evidence, documents by Branch Manager are denied. It is denied that the suspension of workman is contrary to Desai/Shastri Award. It is denied that Enquiry Officer was committed to record finding of his guilt. It is submitted that the workman had taken inspection of the documents on 28-9-72 in presence of the Field Officer A.P., Yadav. All other contentions in statement of claim and rejoinder filed by workman are denied. It is denied that the enquiry suffered from any defect alleged by the workman. It is denied that the Enquiry Officer acted as a prosecutor. The allegation of victimization are denied. By amendment, IInd party has contended that Govt. is incompetent to make reference. Earlier he Govt. had refused to make reference as per Letter no. L-12012/128/76 dated 15-11-76. IInd party prayed that there is no substance in demands of Ist party and relief prayed by Ist party be rejected.

11. Considering pleadings between the parties and after recording evidence, my learned predecessor decided preliminary issue vide order dated 20-6-79. The Enquiry was held vitiated. It is observed that incomplete part of enquiry shall be completed before this Tribunal. First delinquent workman have been examined and then he will have the opportunity to adduce evidence of defence witness including his own. Vide order dated 23-5-81, objection raised by IInd party that Ist party is not workman under I.D.Act and reference is not tenable. The said issue has been decided in favour of the Union rejecting contentions of IInd party management.

12. Other parties adduced evidence and after hearing the arguments, my learned predecessor passed award dated 4-2-83 holding that the action of the management of SBI was justified in dismissing workman B.K.Unde, Official Incharge, Jawar sub office, Ashta branch w.e.f. 27-8-75. The workman was not entitled to any relief.

13. The said award was challenged by Ist party filing miscellaneous petition No. 2498/84. The said Writ Petition was decided on 4-3-91 by Hon'ble High Court. The petition was allowed. The award dated 4-2-83 by this Tribunal was quashed. The case is sent back to the Tribunal with a direction that the Bank shall furnish to the petitioner the copies of the complaints made by Munna Khan, Ganga Ram and Kudrat Ali. Thereafter the Tribunal shall afford an opportunity to the Bank to prove the misconduct against the petitioner and the petitioner shall also be allowed to adduce such evidence in rebuttal as he may deem necessary to meet the charges levelled against him and thereafter the Tribunal shall give a fresh award.

14. Considering above background and finding that Ist party is covered as workman under I.D.Act recorded by my predecessor is not challenged or set aside, said finding is issued finally.

15. The points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|-------------------------------------------------------------------------------------------------------------------|-----------------------|
| (i) Whether charges alleged against Ist party workman are proved? | Partly in affirmative |
| (ii) Whether punishment of dismissal imposed by IInd party is harsh, disproportionate and calls for interference? | In Affirmative |
| (iii) If so, what order? | As per final order. |

REASONS

16. In view of finding on preliminary issue, the enquiry was held defective. The management adduced evidence to prove charges against workman. The workman examined himself and 2 witnesses to substantiate his defence. The evidence with respect to fairness of enquiry

is not necessary to discuss. The directions of Hon'ble High Court in Miscellaneous Petition No. 2498/84 are clear that the copies of statement of witnesses were to be supplied to the workman. Ist party workman was to examine himself generally. The management was allowed to adduce evidence. Ist party was permitted to lead evidence in rebuttal. In pursuance of the directions in Miscellaneous petition, the evidence is recorded. In enquiry proceedings, Shri A.B.Yadav Field Officer did not support the contentions of the Bank Manager that documents were shown to the workman is of no consequence. As per evidence adduced as per the directions in miscellaneous petition 2498/84 Shri Munnakhan in his evidence has stated that he had not withdrawn amount of Rs.200/- . The withdrawal bearing signature were submitted. Complaints with letters requesting enquiry about short balance amount Rs.200/- in his pass book. In his cross-examination, in his evidence is not shattered. However his evidence in cross-examination shows that amount of Rs.200/- was deposited in his Account No. 26571 but he claims that he had not deposited the said amount. The deposit slip did not bear his signature. Management's witness Shri Gangaram has stated in his evidence that amount Rs.500/- was not withdrawn by him. He admits that he had submitted complaint with letters requesting enquiry. That the pass book was with Shri B.K.Unde, the workman. When he asked about it, Mr. Unde told him that pass book would be handed over to him after it was signed by Branch Manager, Ashta Branch. The evidence of Gangaram further shows that withdrawal No. 310577 dt. 7-5-71 for Rs.600/- does not bear his signature. Zerox copy document Exhibit 2/A was produced in the enquiry. In his further evidence, he says that on the day of withdrawal of Rs.1690 he was asked whether all the money in his account were accounted for and he was in dire need for money. He had signed the letter of withdrawal of complaint. On 3-6-71 the amount of Rs.600/- was credited in the account was deposited. Both the witnesses tried to support workman that the amount in their account were properly deposited. Their evidence in cross-examination shows that workman had personally approached there and on his representation that his service was in risk, they had given letters for withdrawal of their complaint. The question is which version is to be relied upon. As per Evidence Act, the conduct of person is relevant, when the Ist complaint was submitted by both of them that the amount in their account was not properly shown. After the amount was properly accounted for and narrated about it by the workman, they had given letter for withdrawal of their complaints. If all those facts are carefully considered, the allegations in the complaint submitted by both of them cannot be said false or motivated to falsely implicated workman.

17. The evidence of cashier Mr. Khan in the enquiry is crucial. In his evidence says that withdrawal slip of

Rs. 200/- from account of Munna Khan was submitted by Manohar lal messenger on instructions of Ist party workman. He had paid to Manohar lal. In his further evidence, cashier says that Manohar lal paid amount Rs. 200/- to the workman. His evidence how he could see handing over of amount by Manohar lal to workman Unde is not clear from his evidence. The evidence in cross-examination of Khan needs to be considered carefully. In his cross-examination, he says that two explanations dated 28-9-72 and 29-9-72 were submitted by him were in his handwriting. He admits that while he was posted at Jawar as acting cashier incharge and he was staying at Jawar. In reply to next question, he says that he was doing up down from Astha and he told lie about it. This witness was unable to tell how many payments he had made on 6-7-74 as cashier incharge at Jaswar sub-office. He was unable to tell without looking into record names of parties whom he made payments. The evidence of this witness was recorded after long gap of the alleged transaction of withdrawal of amount from Account of Munna Khan, Gangaram. The witness in his cross-examination was unable to tell without looking to record about money received by him from other persons on 6-7-74. It is therefore difficult to believe that the amount deposited in account of Munna Khan on 26-7-71 was paid to him by Shri B.K.Unde, the workman. The evidence of other witness in the enquiry P.J.Pathak is on the point of general information about irregularities in the accounts of customers. He had discussed matter with Mr. Sharma, Union Secretary. He has no personal knowledge about deposit or withdrawal of the amount.

18. Shri Kudrat Ali in his evidence has stated that he has filed complaints Exhibit 3(c) & 3(d) that short amount were deposited. To be precise, he says that on 13-2-71, he deposited amount of Rs.650/- in the Bank. The amount was given to the workman Shri Unde. The entry of Rs.650/- was taken in account books. He produced voucher dated 16-2-71 of Rs.500/- for credit in his account. He says that he did not sign the voucher. The photocopy of vouchers produced are Exhibit 3(a). That he had given money to Shri Unde. He handed over money as cashier. The amount of less amount Rs. 150/- was deposited. He deposited said amount on 4-3-71 after withdrawing Rs.1900/- from his account.

19. Shri B.K.Unde in his evidence has denied to have received amount from either of these witnesses. He claims to be falsely implicated. He denies allegation of fraud. The signatures of Munna Khan appears on the documents. His signatures were not examined by handwriting expert. Any criminal proceeding was not initiated against workman or messenger Manoharlal. The evidence of Branch Manager about DD of Rs.170/- issued to the workman. The amount was less in his account therefore amount under DD and cheque of Rs.200/- was not paid. The evidence on record is not sufficient to

establish that amount actually received by workman for wrongful gain with dishonest intention rather amount of Rs. 200/- less in account of Munnakhan was deposited within 20 dyas. The short amount of Rs.150/- in account of Shri Gangaram was also deposited in March 1971. Despite the letters of withdrawal of complaint was given by Gangaram and Munnakhan, fresh letters were obtained from them requesting enquiry. The evidence of this witness is clear that they have not written the letters produced on record requesting enquiry about the irregularities in their accounts. The charge of forgery, misappropriation, wrongful gain cannot be proved from evidence on record against workman. The evidence on record is sufficient to prove that withdrawal payment vouchers were sanctioned by workman without verifying signatures of the account holder. The amount of Rs.650/- deposited by Gangaram was handed over to cashier Khan without verifying the same from receipt. It shows negligence from duty on part of workman.

20. So far as evidence on record shows upon depositing amount Rs. 200 in account of Munnakhan on 26-5-71 doesnot pointout that the deposit slip was signed by the workman.

21. Register of enquiry produced in the matter shows that when enquiry was initiated against messenger Manoharlal. He was not examined as witness in enquiry against Ist party workman to establish that the amount withdrawing from Account of Munnakhan and Gangaram was handed over to workman Unde. The legal position with respect to burden of proof in matter of domestic enquiry is that there should be some evidence to make out the charges alleged against the delinquent workman. The standard of proof is not required as in criminal case to establish charges beyond doubt.

22. Shri Gangaram and Munnakhan when examined before this Tribunal, they tried to support the workman. Shri Gangaram says that he did not remember withdrawal of Rs.600 . That Exhibit M-21 bears his signature. In his cross-examination, he says that he did not remember that he withdraw Rs. 600/- or deposited Rs. 600/- vide Exhibit M-19. The witness is supporting half heartedly on the allegation of management. Similarly Munnakhan in his evidence before Tribunal says that he has not lodged complaint. Bank has obtained his signature on some paper, he had not read the papers. In his cross-examination he says that had not given any complaint to the Bank. Some agent came to his house and obtained signature on Exhibit M-1. It appears that both witnesses are not supporting whole heartedly because of certain influence. After directions in Miscellaneous Petition 2498/84, management produced affidavit of witnesses. However the right to cross-examine those witnesses was closed for repeated absence of the workman. Their evidence remained unchallenged. Thus the evidence on record varies at different stags but considering the conduct of the witnesses submitted complaints, they supported

allegation against workman at the Ist instance in the DE, observations to be relied upon. The evidence on record proves charge No.1,2,3,4 but dishonest intention for receiving wrongful gain on part of workman cannot be proved as alleged in Charge No.1 to 3 cannot be established. So far as Charge No.5 (a to h) are miscellaneous error observed by Enquiry Officer. No errors or omissions on part of the workman while maintaining the account are established. Accordingly I record for reasons discussed above that the transactions in charges 1,2,3 are proved. The wrongful intention, forgery of signature by documents in Ist party workman Shri Unde is not established.

23. Charge No.4- Negligence on part of Ist party workman is proved.

24. After receiving report of the Enquiry Officer, punishment of dismissal from service is imposed. The charges 1 to 5 against delinquent workman included dishonest and fraudulent intention of withdrawing amount and depositing the same in wrongful way by receiving the amount in wrongful gain of fraudulent and forgery on part of Ist party workman is not supported by satisfactory evidence. Ist party workman is unfortunate that despite of repeated anxiety of P.O, the matter could not be decided earliest. The case was adjourned from 1994 for argument. Counsel for IInd party management many times even the counsel for Ist party workman sought adjournment and did not argue the matter. After issuing notice to the counsel for IInd party management, they did not appear and argue the matter. I am not benefitted with the argument on behalf of IInd party management. In judgment by my brother in passing the award on 23-5-81 observed that though the order of punishment of dismissal from service of workman was upheld as just and legal observed considering present hard times, in case the workman is agreeable to be appointed on the post last held by him or even low post, management should consider favorably, such prayer if any made by workman. It appears that said observation was not respected by the management. The award was challenged by Ist party in miscellaneous petition No. 2498/84 and the award has been set-aside with direction to supply copies of statements and allow opportunity to adduce evidence to both parties. As discussed above, the evidence on record is not sufficient to establish that workman with dishonest intention withdrawing amount from account of Shri Munnakhan and Gangaram and wrongfully used said amount for his own benefit. Amount in account of Munnakhan and Gangaram was properly accounted even prior to the enquiry initiated or the chargesheet was issued. Complaint were withdrawn by both of them but some officer from the Bank persuaded them to give fresh letters requesting enquiry in the matter. If those aspects are considered carefully, the punishment of dismissal from service of workman which results in Civil Death and ultimate punishment to family members

surely is not justified. It is disproportionate to the proved misconduct. In view of Section 11 A of I.D. Act, punishment needs to be modified.

25. At the time of argument, the learned counsel for workman Shri Shashi submits that workman could not be in service as he is more than 70 years of age, reinstatement is not possible. That few days of his life has remained. On above lines, he submits that Ist party may atleast get pensionary benefit. Considering the facts and circumstances of the case in my considered view, reinstatement of workman without back wages will certainly give pensioner benefits to workman and will fulfill the expectations of Ist party to live smooth life during the last phase of his life. For above reasons I hold that the punishment of dismissal against workman is not proper. It is disproportionate.

26. In the result, the award is passed as under:-

- “1. The Act of IInd party management of dismissal of service of Ist party from 27-8-75 is not legal. The order of his dismissal is set aside.
2. IInd party is directed to reinstate Ist party workman Shri B.K.Unde without back wages.”

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 2014

का.आ. 2724.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 97/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 01-10-2014 को प्राप्त हुआ था।

[सं. एल-12025/01/2014-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th October, 2014

S.O. 2724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 97/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/10/2014.

[No. L-12025/01/2014-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 18th day of March, 2014

INDUSTRIAL DISPUTE L.C.No. 97/2005

Between:

Sri V. Bala Raju,
S/o Ramaiah,
C/o Sri S. Ravindranath,
Advocate, 3-4-142/9, Flat No.302,
III floor, Lalitha Apartment,
Barkatpura, Hyderabad -27.

....Petitioner

AND

1. The Chief General Manager,
State Bank of India,
Local Head Office, Bank Street,
Koti, Hyderabad.
2. Branch Manager,
State Bank of India,
Main Branch,
Narasarao Pet, Guntur (Dist).
3. Branch Manager,
State Bank of India,
Accampet, Acchampet (M.D.)
Guntur (A.P)

....Respondents

Appearances:

For the Petitioner : M/s. S. Ravindranath,
V. Ramu & M.V.R. Rao,
Advocates

For the Respondents : M/s. B.G. Ravindra Reddy &
B.V. Chandra Sekhar,
Advocates

AWARD

This is a petition filed by Sri V. Bala Raju, the workman invoking Sec. 2A(2) of the Industrial Disputes Act, 1947 seeking for to reinstate him into service with full back wages and all attendant benefits by declaring that the oral order of retrenchment dated 13.8.2002 rendered by the Respondents as void and without jurisdiction.

2. The averments made in the petition in brief are as follows:

Petitioner who got registered in the employment exchange office at Guntur for the post of Driver. Being possession of all required qualifications for the said post received call letter and attended interview conducted in the State Bank of India, Narasaraopet, Agricultural Development Branch for the said post of Driver-cum-Messenger. He got selected in the interview and was appointed in the said post on 5.2.1974 against permanent vacancy. Whereas one Mr. P. Peddbhai was appointed as temporary Driver-cum-Messenger post along with the Petitioner and his services were regularised in 1978 itself but the Petitioner was denied the same benefit. Petitioner discharged his duties as Driver-cum-Messenger till 1980

at Narasaraopet on wages of Rs.250/- per month from petty cash. He was informed by the officers of the said branch that they were taking suitable steps in making the Petitioner as permanent employee. On that ground he was transferred from Narasaraopet (ADB) branch to Sattenapalli branch. He was under the impression that his services would be regularised on par with the other employees. While he was working in Sattenapalli branch Respondent advanced a loan for purchase of a Jeep bearing No. MRD 5667 for the purpose of their official use and assured that he would be continued as Driver-cum-Messenger. His services were utilised exclusively for the purpose of bank. In this connection Respondent also opened SB A/c N.P.24/7645 and the bank used to deposit the amounts into the said account stating it to be the salary after deducting the instalment of loan amount directly. Petitioner worked in Sattenapalli till 28.6.1991. Later he was transferred to Narasaraopet branch in the capacity of Driver-cum-Messenger and worked there till 30.4.1997. During that period he also worked for a brief period at State Bank of India, Peddakurapadu. The bank officials utilised his services exclusively for the purpose of bank to operate on the above said Jeep. After Petitioner was transferred to Narasaraopet branch Respondent used to pay the amounts by way of bankers cheque till 1.5.1997 on the day of which his services were disengaged and he was asked not to attend the duties. Petitioner was under full control of the Respondents and was transferred to various places as per the instructions of the higher officials from time to time. Respondents extracted work from the Petitioner in various fields like Driver, Messenger and Watchman. Respondent failed to pay the salary as per the scale applicable to Driver etc., at any point of time despite extracting work from the Petitioner. He was forced to work every time even after office hours. As per the directions of the officials. But suddenly 2nd Respondent removed the Petitioner from service w.e.f. 1.5.1997 without giving any notice. Though the vehicle is shown as Petitioner's own vehicle it was kept under the custody of the Respondent. Petitioner also worked under the control of the Respondents. 3rd Respondent again took the Petitioner into service and extracted work from 4.12.2001 to 13.8.2002 and terminated his services without assigning any reasons. He was driven out of the employment after 30 years of services mercilessly. The said act is highly arbitrary and illegal. Taking advantage of the Petitioner's illiteracy and ignorance, Respondents played fraud on him and thrown him on to the road at the verge of his retirement age. Since he is the only bread winner of his family, the acts of the Respondents tantamount retrenchment under Sec.25F and Chapter V-B of Industrial Disputes Act, 1947. Petitioner tried to his level best to secure alternative employment, but he could not secure one. Hence the petition.

3. Respondents/Management filed their counter with the averments in brief as follows:

Petitioner was never appointed or engaged as Driver. There is no relationship of employee and employer between the Petitioner and the Respondents. The question of termination does not arise. The Petitioner has got his own Jeep bearing registration No.AAk 3347 and the same was given on hire to the bank, on rent. Petitioner used to drive the said jeep and he used to collect the hire charges, depending upon the usage. The jeep along with the driver was taken on hire during the period from 1.1.1995 to 31.3.1997 by the Narasaraopet branch and from 1.2.2002 to 8.4.2002 by the Atchampet branch depending upon the requirement from time to time. Necessary vouchers towards the charges/rent paid to such services rendered by the Petitioner are filed as material papers. Petitioner never worked as employee either as casual employee or as temporary employee. Petition is not at all maintainable as there is no industrial dispute. Petition is liable to be dismissed.

4. To substantiate the contentions of the Petitioner/workman he examined himself as WW1 and got marked Ex.W1 to W8. On behalf of the Respondents/Management MW1 was examined and Ex.M1 to M3 were marked.

5. Heard the arguments of either party. Written arguments are also filed for either party and the same are considered.

6. The points that arise for determination are:

1. Where there is relationship of employer and employee between the Respondent bank and the Petitioner?
2. Whether Petitioner is entitled for the reliefs sought for?

7. Point No. I :

It is the contention of the Petitioner that he attended the interview with the Respondent bank, in pursuance of a call letter received by him from the Employment Exchange with whom he registered himself and in the said interview he was selected and appointed as a Driver-cum-Messenger and in that capacity he worked since the year 1974 in various branches of the said bank. Whereas it is the contention of the Respondents that Petitioner was never appointed as Driver-cum-Messenger by them and that they only hired the Jeep owned by the Petitioner and Petitioner has driven the said jeep and rendered services as the said hired jeep driver only but not as their employee and that there was never any relationship of employee and employer between the Petitioner and the Respondent bank.

8. But Petitioner is relying upon Ex. W1 to W8 in support of his contentions, apart from his own oral evidence as WW1. Ex.W1 is copy of call letter dated

23.1.1974 received by the Petitioner from Employment Exchange, Guntur which clearly shows that Petitioner was asked to attend the interview held on 5.2.1974 at 2.30 PM by the Branch Manager, State Bank of India, Agricultural Development Bank, Narasaraopet, Guntur district for the post of Driver-cum-Messenger which carries Rs.116/- plus allowances as salary. Ex.W2 is the particulars of services rendered by the Petitioner with the Respondent bank issued by the Branch Manager, State Bank of India, Agricultural Development Bank, Narasaraopet, Guntur district which is to the effect that Petitioner worked in subordinate cadre as Driver-cum-Messenger/Watchman/Special Messenger with the said bank. Ex.W3 is the certificate issued by the Branch Manager, State Bank of India Agricultural Development Bank, Narasaraopet certifying that Petitioner has put in a temporary service of 3 months and 16 days in various categories in the said Branch as Driver-cum-Messenger/Watchman/Special Messenger and that his conduct and character are good. Ex.W4 is the copy of savings account pass book pertaining to the Petitioner. Ex.W5 is the office copy of the representation made by the Petitioner to the Respondent bank claiming that he worked as a driver for the Respondent bank, but injustice was done to him. Ex.W6 is the acknowledgement under which the said letter was received by the Respondent bank. Ex.W7 is the order dated 10.7.2012 issued by the Central Information Commission, New Delhi whereunder Respondent bank was directed to make available the information sought in the RTI application filed by the Petitioner connecting with his service verification within 30 days after the receipt of the said order. Ex.W8 is also copy of the SB Account pass book pertaining to the Petitioner with the Respondent bank which contains various entries regarding all the amounts credited by the Respondent bank into his account.

9. The Chief Manager of the Respondent bank Sri T. G. Prabhakar who was examined as MW1, has stated during his cross examination that he is not disputing with Ex.W1 to W4. That means, the factum of Petitioner attending an interview conducted by the Respondent bank for the post of Driver-cum-Messenger and subsequently his working for the said bank in that capacity is concerned evidently, there is no dispute. Such is the case, it is for the Respondent bank to come out with the information regarding what transpired between the said bank and the Petitioner later on. Respondent bank is the custodian of all the service particulars and service record of the Petitioner. It is for them to produce all relevant record before the court. Whereas, apart from not filing said record before this court to reveal the true nature of the affairs, when the Petitioner filed an application invoking Right to Information Act, seeking for the said particulars, evidently, the Respondent bank not even bothered to answer the same. Ex.W7 order clearly shows that Respondent bank

has not responded to the RTI application made by the Petitioner seeking for furnishing such particulars. Evidently they purposefully misunderstood the application and gave irrelevant answers before the information authorities by which Petitioner was constrained to file appeal, from appeal and finally to the Central Information Commission, New Delhi, who has rendered Ex.W7 order requiring the Respondent bank to make the information sought for by the Petitioner available within the time limit prescribed. But evidently, so far such information has never been furnished to the Petitioner. While MW1 was deposing before the court he undertook to produce the some documents before this court and also comply with the direction given in Ex.W7 order. But no such document is produced before this court and there is no information revealed before this court to show that Ex.W7 order was complied with. This conduct on the part of the Respondent bank clearly shows that they are bent upon suppressing vital information relevant to the present industrial dispute and are purposefully evading their liability to reveal the true nature of the affairs regarding the service of the Petitioner with them.

10. It is the contention of the Respondent bank that under Ex.M1 vouchers, hire charges were paid to the Petitioner for the jeep hired by them. The Respondent's bank described the said vouchers in the chief examination affidavit of MW1 stating that these vouchers are signed by the Petitioner in token of receiving hire charges. Whereas while MW1 was under cross examination, he admitted that Petitioner's signatures are not available on Ex.M1 vouchers and further that his name also was not mentioned in them. In that case how the Respondent bank could connect these vouchers to the Petitioner is a question which remained unanswered.

11. Petitioner specifically stated that along with him one Sri Peddbhai was also appointed as Driver-cum-Messenger and that his services were regularised. Whereas Petitioner, whose services were continuously taken as Driver-cum-Messenger for long period of 30 years, was not regularised and thus there is discrimination. Respondent has not chosen to answer this contention at all. For Petitioner, it is argued that purposefully, the services particulars of Sri Peddbhai which are readily available with the Respondent bank are not filed before this court. It is a fact that, that said service particulars were not filed before the court. MW1, the witness who is examined before the court on behalf of the Respondent bank Management has stated that he does not know whether one Sri Peddbhai is junior to the Petitioner and whether Sri Peddbhai has worked as Driver-cum-Messenger. If such is the evidence adduced for the Respondent, in this industrial dispute what one can understand is that Respondent is evasive in this respect also and therefore, it is to be taken that contentions of the Petitioner with this regard are true and correct.

12. It is the specific contention of the Petitioner that one Sri Prabhakar Rao, a senior official of the Respondent bank enquired into the matter and made a report to the effect that Petitioner worked for the Respondent bank from 1974 to 2002 and that said report is being suppressed purposefully by the Respondent bank. MW1 though denied the truth of this suggestion, failed to file the said report before the court inspite of his giving an undertaking that he would produce official letter register and also the said enquiry report before the court. As already discussed above, Ex.W7 order has not been complied with so far by the Respondent bank. It all clearly give rise to reasonable understanding that purposefully Respondent bank is suppressing the material record in this case. Thus, an adverse inference is to be drawn to the effect that if such record is produced before this court and is revealed to the Petitioner, Petitioner's contentions would be proved only, Respondent bank is suppressing the said record.

13. In the given circumstances, it is to be taken that there is relationship of employee and employer between the Petitioner and the Respondent bank.

This point is answered accordingly.

14. Point No. II :

In view of the finding given in Point No.I, it can safely be held that what all the contentions raised by the Petitioner are correct regarding his service with the Respondent bank and that the contentions contra raised by the Respondent bank stating that Petitioner's jeep has been hired by the Respondent bank and that was the only relationship between them is not acceptable. Thus, it is to be taken that Respondent bank which employed the Petitioner has terminated his service without serving any notice or assigning any reason w.e.f. 13.8.2002 by way of an oral order. The said order is in violation of the provisions of Industrial Disputes Act, 1947 and further it is arbitrary and illegal. Thus, it is liable to be set aside. In consequence, Petitioner is entitled for reinstatement into service with all attendant benefits and back wages.

This point is answered accordingly.

RESULT:

In the result petition is allowed. The oral termination order dated 13.8.2002 under which Petitioner's services were terminated by the Respondent bank is hereby declared as illegal, arbitrary and in violation of provisions of Industrial Disputes Act, 1947 and it is hereby set aside. Respondent bank is hereby directed to reinstate the Petitioner into service as Driver- cum-Messenger forth with w.e.f. 13.8.2002. Petitioner is entitled for all attendant benefits and back wages consequently.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence :

| Witnesses examined for the Petitioner | Witnesses examined for the Respondent |
|------------------------------------------|------------------------------------------|
| WW1: Sri V. Bala Raju | MW1: Sri T.G. Prabhakar |

Documents marked for the Petitioner :

| | |
|--------|----------------------------------------------------------------------------------------|
| Ex.W1: | Photostat copy of call letter from Employment Exchange dt. 23.1.1974 |
| Ex.W2: | Photostat copy of particulars of service rendered by Petitioner during 1974-1975 |
| Ex.W3: | Photostat copy of certificate issued by the Respondent Branch Manager dt.12.7.75 |
| Ex.W4: | Photostat copy of SB A/c No.P.24/7645 of Sattenapalli Branch dt. 14.2.1991 |
| Ex.W5: | Photostat copy of representation by WW1 dt. 4.10.2004 |
| Ex.W6: | Photostat copy of acknowledgement dt. 5.10.2004 |
| Ex.W7: | Photostat copy of order dt. 10.7.2012 passed by Central Information Commission |
| Ex.W8: | Photostat copy of pass book pertaining to the Petitioner issued by Sattenapally Branch |

Documents marked for the Respondents :

| | |
|--------|-------------------------------------------------------------------------------------------------|
| Ex.M1: | Photostat copy of bunch of vouchers signed by the Petitioner in token of receiving hire charges |
| Ex.M2: | Photostat copy of statement of charges account |
| Ex.M3: | Photostat copy of circular dt. 26.12.2005 No.CDO/OP&SP/23./05-06 |

नई दिल्ली, 10 अक्टूबर, 2014

का.आ. 2725.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, पुणे के पंचाट (संदर्भ संख्या 17/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-10-2014 को प्राप्त हुआ था।

[सं. एल-41011/28/2006-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th October, 2014

S.O. 2725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Pune as shown in the Annexure, in the industrial dispute between the management of Central Railway and their

workmen, received by the Central Government on 01/10/2014.

[No. L-41011/28/2006-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE SHRI D.H. DESHMUKH, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, AT PUNE

Reference (IT) No.17 of 2007

Between :

The Divisional Railway Manager
Central Railway, Pune.

...First Party

And

The Chairman,
Rail Kamgar Union,
C/o Madhya Railway Sthaniya,
Lakadhikar Samiti,
Central Railway,
Pune 411 001.

...Second Party

Advocates: Smt. Salunkhe, Advocate for First Party.
Smt. S. A. Lokhande, Advocate for Second Party.

AWARD

(Date : 23-04-2014)

This is a reference made by Government of India, for adjudication of industrial dispute between Divisional Railway Manager, Central Railway, Pune ("the first party" for short) and the Chairman, Rail Kamgar Union, Central Railway, Pune ("the second party" for short). The Schedule to the reference order is as follows :-

"Whether the action of the management of Central Railway, Pune in not reinstating 9 persons who have been working as Vendor at Miraj Railway Station is legal and justified ? If not, to what relief the workmen are entitled to ?"

The reference order is dated 3-10-2007.

2. The second party union has filed the Statement of Claim at Exh.U-2, which has got Annexure 'A', containing names of 8 workmen/concerned workers along with details like year of joining etc. Those names, the year of joining and other details are as follows :-

ANNEXURE 'A'

| Sr. No. | Name | Year of Joining | Designation (at the time of termination) | Batch No. | Identity Card No. | Medical Exam. Date |
|---------|--------------------------|-----------------|---------------------------------------------|-----------|-------------------|--------------------|
| 1. | Suryakant Nakul Masurkar | 1990 | Assistant Vendor/ Helper | | | 1990 |
| 2. | Dayanand Moolay | 1990 | " | | | 1990 |
| 3. | Ramesh B | 1990 | " | | | 1990 |
| 4. | Padmanabha V. Moolya | 1990 | " | | | 1990 |
| 5. | Vasudeo Moolya | 1990 | " | | | 1990 |
| 6. | Ulhas Nakul Masurkar | 1990 | " | | | 1990 |
| 7. | Yusuf a. Shaikh | 1990 | " | | | 1990 |
| 8. | Thirugnanam | 1990 | " | | | 1990 |

3. The second party has contended that the concerned workers were working as Assistant Vendors/Helpers for increasing sale of various canteen items from railway such as food, snacks, mineral water. Their work was supervised by Manager of the first party Railway. They were required to work in first shift. It is contended that the Industrial Tribunal had earlier decided a similar matter with different set of workers, and accordingly, regular employment has been granted to those workers. The award is also passed. The union has then contended that the concerned workers were given 12% commission on sale of food etc. The concerned workers were subjected to the medical examination by the Medical Officer of the Railway. They were also given badges and identity cards for administrative convenience. The contention is that the

concerned workers had worked for many years, and were liable to be absorbed in the permanent employment of the railway. However, their services were abruptly orally terminated in March 2001, without complying with Section 25-F of the I. D. Act. The termination is legal and justified. The second party wants all the workers to be reinstated, and absorbed in the services of the railways as Assistant Vendor/Helper.

4. The first party railways has resisted the claim, denying the adverse allegations. The employment, the alleged supervision etc are all denied. It is contended that Commission Vendors were engaged by Railway Authority for sale of various catering items such as food, snack, mineral water on commission basis, and vendor shops were managed on day to day basis by the

Commission Vendors themselves. The Commission Vendors were not the employees of the railway, but earned commission on items sold by them. The working hours of the Commission Vendors were not decided or supervised by the first party. The supervision was only from the view point of health, sanitation, cleanliness and the quality of food. The railway authority maintained the Live Register, containing the names of Vendors. The concerned workers were not employed by the railways. The concerned workers were engaged by the Commission Vendors on their own without knowledge, approval or consent of the first party.

5. The first party makes recruitment strictly in accordance with law and rules. The concerned workers were subjected to the medical examination only in the interest of passengers, and from health and hygiene point of view. The badges and identity cards were issued by railway, so as to facilitate free entry at the station. The allegations of termination of services are denied. It is contended that the first party has got recruitment rules, & according to which, recruitment is made. The first party has pressed for rejection of the claim.

6. The issues and my findings thereon are as follows :

| ISSUES | FINDINGS |
|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1. Whether there exists employer-employee relationship between the workmen mentioned in the Schedule to the Reference and the First Party ? | No. |
| 2. Whether the demand raised by the Second Party Union is justified ? | No. |
| 3. What Award ? | As per final award. |

REASONS

7. There is some oral and documentary evidence. I have gone through the entire record, including the written argument, and the case law, and have heard the submissions made by the learned counsels.

The reference order states about 9 persons who claim of reinstatement. The Statement of Claim restricts the claim to the 8 persons mentioned in Annexure 'A'. The reference order does not have the date of termination or the date from which the relief is required to be given. In the statement of claim, the allegation is that the services were terminated by the first party in March 2001. No date is mentioned. The second party wants reinstatement as well as absorption in regular employment. In support of such a claim, the only evidence led by the second party is the oral evidence of Suryakant Masurkar, one of the concerned workers, and copies of few documents. Suryakant stated in his affidavit that he is working in railway as Vendor. He along with the other workers named in Annexure 'A' were stopped from working without

giving sufficient reasons, and were asked to leave the work premises. Suryakant has stated that he is President of the second party union, and was in employment of the first party since 1990. At the time of termination he was working as Assistant Vendor/Helper. He and the concerned persons were given the duties of increasing sale of various catering items such as food, snacks, cold drinks and mineral water, etc, and they were paid 12% commission. The work was supervised by the Catering Supervisors of the first party. The concerned workers were required to work in various shifts. The concerned workers were subjected to the medical examination, and were also given identity cards and badges for administrative convenience and discipline. Suryakant then stated that there was another reference, which was decided by the Tribunal, and some relief was granted regarding reinstatement etc. Suryakant then stated about the interim order passed in this case, which according to him was not complied by the first party.

8. In cross-examination, Suryakant has admitted that he worked under T. Ganeshan, and Ganeshan was his Vendor. Suryakant was not given written appointment letter by railway. The other concerned workers also were not given written appointment letters by railway. No written agreement was signed between concerned workers and railway. There are no documents regarding payment made by railway. Further cross indicates that there is no post of Assistant Vendor/Helper. Suryakant denies a suggestion that identity card was given only for the purpose of identification. He also denies the suggestion that medical examination was taken only from the point of view of hygiene.

9. The first party has examined Shri Chandrakant Arjun Kamble, who is Chief Law Assistant with the Railway. Chandrakant has stated on the lines of the defence in the written statement. According to Chandrakant, Vendor Shops are given on tender basis to the Vendors by the Railway Authorities for sale of various catering items such as food and other snacks, including mineral water, and Vendor Shops are managed by Vendors themselves, who are not employees of the Railway. The work, working hours etc. of the Vendors are not supervised by railway, but the services of the Vendors from the point of view of health, sanitation, cleanliness, quality of food are supervised by the Catering Manager of the first party. Kamble denies that the concerned workers were working under the supervision of Catering Supervisor. The concerned workers were medically examined and were given badges and identity cards for the benefit and safety of the passengers, and the same were not given as employees of the Railway. Kamble denies the allegation of employment as well as termination of services. According to him, Railway has to follow procedure for recruitment of staff, and in the present case, no such procedure was followed.

10. In cross-examination, Kamble clarifies that the concerned workers are not Vendors, but they were Assistant of the Vendors. The railway has got contract with the Vendors, but the contract is not produced. The identity cards of the concerned workers are not given by railway. Prior to 2002, there was catering department of railway, and railway was giving contract. At that time railway used to make payment of permanent employees of catering department, and further used to give commission to Commission Vendors. Identity cards and badges are given for the sake of identification. Kamble admits that the catering department work is of perennial nature. The concerned workers were medically examined, but not as employee. Kamble clarifies that medical examination was taken from hygiene point of view etc.

11. With Exh.U-6 are copies of statement of claim, and order below Exh.U-3 passed by Industrial Tribunal, Pune in Reference (IT) No.22 of 2002. The order appears to be an interim order. With Exh.C-10 second party produced xerox copies of 8 identity cards of the concerned workers. The identity cards bear seal of Railway. However, the information written indicates that those persons were working as Assistant to the Vendors, or Assistant of Vendors. The names of Vendors are also mentioned.

12. I have considered the submissions made by the learned counsels of both the sides, orally as well as in the written argument at Exh.U-13. On behalf of the second party, three judgments were sought to be relied upon, which are (1) 1957 Vol.I LLJ Pg.477(S.C) Dharangadhra Chemical Works Ltd. Vs. State of Saurashtra and others, (2) 1958 Vol.II LLJ Pg.252 (S.C) Chintaman Rao & anr. Vs. State of Madhya Pradesh, (3) 1978 LAB. I. C. Pg.1264 (S.C) Hussainbhai Vs. The Factory Tezhilali Union & Ors. The judgments are cited to show the test to determine whether particular person is a workman or not. What is held in the judgments is undisputable.

13. The first party is Central Railway. The employer is therefore, a Government of India's Department. The first party has pleaded and also stated in evidence that recruitment is made in accordance with rules, and no such rules were followed in order to make appointments in the present case. It is not the case of the second party that the concerned workers were recruited in accordance with the recruitment rules. Before granting any relief, the Tribunal has to keep this fact in mind. Apart from that, the claim is on behalf of 8 workers. The second party appears to be the registered Trade Union. Suryakant is President of the said union, and therefore, union has the authority to espouse such a dispute. The concerned workers claim to have been working since 1990. Their services were allegedly abruptly/orally terminated in March 2001. No date is mentioned. Reference came to be made to this Tribunal in 2007. What prevented the second party to raise the dispute immediately is not

explained. Secondly to prove the continuous employment for almost 11 years, and the termination thereof, the only evidence led is the testimony of Suryakant, who is one of the workers, and copies of few identity cards. Suryakant in his evidence has not stated specifically about the continuous employment of other workers. In the affidavit, he only states that the 8 workers were stopped from working, but when, that is nowhere stated. Suryakant admits in cross examination that he worked under Shri T. Ganeshan, who was Vendor. Admittedly none of the workers was given any appointment letter. There is no evidence of supervision and control by railway administration, or payment of wages by railway administration. Having regard to the evidence that is led, I find very clearly that to cater to the needs of the passengers vendor shops were given to some parties on commission basis. Those vendors run the shops or the activity of catering food etc. Vendors appointed Asstt.Vendors and worker like the concerned workers. The commission of 12% was paid by railways. Identity cards and badges were issued, so as to enable the workers to enter the Railway Stations etc. The medical examination was done, apparently for the sake of ensuring good health and hygiene. All that was done, for and in the interest of passengers. The material on record nowhere points to direct employer-employee relationship between the concerned workers and the railway administration. I therefore, find that the second party has failed to prove that the concerned workers were a "workman" employed by the first party. Thus, there was no employer-employee relationship. The second party has also failed to prove that the services were terminated by the first party. In fact, there could be no such occasion of first party terminating the services. I therefore, do not find any justification in the demand that, the management of Central Railway has refused to reinstate the concerned 8 workers. That refusal or action or inaction cannot be said to be illegal or unjustified. The reference is accordingly, answered in the negative.

Pune

Date : 23-04-2014

D. H. DESHMUKH, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 2014

का.आ. 2726.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 01/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 08-10-2014 को प्राप्त हुआ था।

[सं. एल-12011/23/2008-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th October, 2014

S.O. 2726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 01/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 08/10/2014.

[No. L-12011/23/2008-IR (B-I)]

SUMATI SAKLANI, Section Officer
ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/01/2009

Date: 22.09.2014

Party No.1 (a) : The Asstt. General Manager,
State Bank of India,
Region-IV, Zonal Office,
S.V. Patel Marg, Kingsway, Nagpur.

(b): The Dy. General Manager,
State Bank of India,
Zonal Office, S.V. Patel Marg,
Kingsway, Nagpur.

V/s.

Party No. 2 : The Asstt. General Secretary,
State Bank of India Staff Union,
C/o. SBI, Zonal Office,
S.V. Patel Marg, Kingsway,
Nagpur

AWARD

(Dated: 22nd September, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of State Bank of India and their workman, Shri D.K. Pranjle, for adjudication, as per letter No.L-12011/23/2008-IR (B-I) dated 12.12.2008, with the following schedule:-

"Whether the action of the management of State Bank of India (Asstt. General Manager, Region IV, Zonal Office, Nagpur) and the Deputy General Manager, State Bank of India Kingsway, Nagpur in awarding punishment of dismissal from the Bank services to Shri D. K. Pranjle, Ex-part time Messenger-cum-Farrash, vide Orders No. AGM/IV/AS/5412 dated 08.02.2005 and No. DGM/DISC/2.5.2006 dated 01.08.2005, is justified and legal? If not, to what relief the workman concerned is entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman, Shri D.K. Pranjle, ("the workman" in short) through his union, the "State Bank of India Staff Union", ("the union" in short) filed the statement of claim and the management of State Bank of India, ("party no.1" in short) filed the written statement.

The case of the workman as presented by the union in the statement of claim is that the workman was appointed in the services of party no.1 at its Treasury Branch, Akola, as a part time Sweeper-cum-Waterman vide order dated 03.09.1992 and he was confirmed in the services of the Bank and the workman was suspended vide order dated 19.04.2003, pending departmental enquiry to be conducted against him, for some alleged misconduct and the disciplinary authority issued the charge sheet dated 12.02.2004 against the workman, under paragraphs 5 (b) (d) (j) and (l) of the Bipartite settlement and the workman submitted his explanation to the charge sheet, specifically denying all the charges and as such, party no.1 decided to conduct the departmental enquiry against the workman and appointed the enquiry officer and the enquiry officer conducted the departmental enquiry and the workman participated in the enquiry and the enquiry officer submitted his report dated 18.10.2004, holding the charges to have been proved against the workman and on the basis of the said enquiry report, the disciplinary authority awarded the punishment of dismissal from services against the workman, vide his final order dated 08.02.2005 and the workman carried the said order before the Appellate Authority, but the appeal preferred by the workman came to be rejected by the Appellate Authority.

It is further pleaded by the union on behalf of the workman that the service conditions of the employees of party no.1 are governed by the provisions of Sastry Award, Desai Award and Bipartite settlements and on 05.04.2003, there was a robbery at State Bank of India, in which, the culprits robbed Rs. 21 lacks and while the robbery was undertaken, the workman was on duty alongwith other officials of the Bank and the culprits entered into the cash department, despite all the security arrangements made by the Bank and a FIR was lodged immediately by the Bank Officials with the police and after investigation, police filed a criminal case in the court, arraying the workman as one of the accused persons and the said criminal case is still subjudged in the Court of the Chief Judicial Magistrate, Akola and as the criminal prosecution was initiated by the party no.1 against the workman, it was not necessary to initiate the disciplinary action against him till the result of the said criminal complaint was given by the court, but the party no.1 hastily decided to simultaneously conduct the departmental proceedings

against the workman and completely violated the provisions of clause 521 of the Sastry Award and the workman was not involved in the said robbery and the party no.1 committed error of law in dismissing the workman from services, without waiting for the decision of the criminal trial and in view of the matter, the departmental enquiry and the punishment awarded are ab-initio illegal and invalid.

It is further pleaded by the union on behalf of the workman that the enquiry officer was biased and the charge sheet was not given in accordance with the procedure envisaged in Sastry Award and vital documents demanded during the course of the enquiry were not given to the workman and thereby, reasonable opportunity of defence was not given and the enquiry was conducted without following the principles of natural justice and the findings of the enquiry officer are perverse, as the same are not based on the evidence recorded during the course of the enquiry and the enquiry officer did not take into account the defence evidence and gave unnecessary weight to the evidence of the management and the report of the enquiry officer is short of proper reasoning and the conclusions drawn by the enquiry officer are such, which no reasonable man can arrive at on the facts and circumstances of the case and the disciplinary authority as well as the appellate authority passed the orders without application of mind and both the orders are mechanical and the authorities did not take into consideration the past record of the workman and the punishment is not proper and is shockingly disproportionate.

Prayer has been made by the union for reinstatement of the workman in service with continuity, full back wages and all consequential benefits.

3. The party no.1 in the written statement has pleaded inter-alia that the workman was working at its Akola Treasury Branch as a Messenger-cum-Farrash on 3/4th Part Time Scale, when the charge sheet came to be issued against him and on 05.04.2003 at about 6.30 PM, Arun Katole, the Brother-in-Law of the workman entered into the strong room of the branch and robbed the bank with cash of Rs. 21 lacks and the workman was standing near the watchman, while Arun was trying to enter the strong room, but he did not show any familiarity with him and even after the robbery in the bank, the workman did not disclose the fact that his brother-in-law committed the robbery and he also did not raise any alarm, when his brother-in-law was committing the robbery and instead of doing anything to prevent the culprit from doing the misdeed, the workman helped his brother-in-law in putting higher denomination currency notes in a bag from the strong room and also had briefed his brother-in-law the secret information, such as geography of the branch, the timing of loading the cash in the strong room and

receipt of cash remittance from Reserve Bank of India and the workman was therefore issued with the suspension order dated 19.04.2003 and he was suspended w.e.f. 20.04.2003 and charge sheet dated 12.02.2004 was issued against the workman, which was received by him on 16.02.2004 and the enquiry was conducted by the enquiry officer from 10.06.2004 to 27.08.2004 in three sittings, giving ample opportunity to the workman to defend his case and the workman attended the enquiry with his defence representative, Shri Y.P. Ambekar and he was provided with all the documents relied upon by the Bank and was informed about the witnesses to be examined and the witnesses were examined in presence of the workman and they were cross-examined by the representative of the workman and the request of the workman for further cross-examination of the witness, Shri Makasdar was allowed by the enquiry officer and Shri Makasdar was recalled and cross-examined further on 27.08.2004 and though opportunity was given to the workman to adduce evidence in his defence, the workman declined to examine any witness in his defence and the copy of the proceedings was given to the workman on each and every date of the enquiry and the enquiry officer submitted his report dated 18.10.2004 to the disciplinary authority and the disciplinary authority issued the second show cause notice dated 21.12.2004 alongwith enquiry officer's report, proposing the punishment of "dismissal without notice" to the workman and the workman submitted his reply dated 10.01.2005 to the show cause notice and personal hearing was given to the workman alongwith his defence representative on 10.01.2005 by the disciplinary authority and the disciplinary authority after considering the material on record of the enquiry and the report of the enquiry officer, passed the final order dated 08.02.2005 of "dismissal without notice" and the workman preferred an appeal against the final order and the Appellate Authority gave personal hearing to the workman on 19.04.2005 and the appeal was dismissed by the appellate authority on 01.08.2005 and all the principles of natural justice were complied with, while conducting the enquiry against the workman and the enquiry officer assigned justifiable reasons in support of his findings and having regard to the gross misconduct of the workman, the punishment was rightly imposed and it has lost confidence in the workman and the punishment is commensurate with the gross-misconduct committed by the workman and the same is not shockingly disproportionate.

It is further pleaded by the party no.1 that during the departmental enquiry, the workman had not raised any objection regarding conduction of the same simultaneously with the criminal trial and for the first time, said issue has been raised and therefore, on this ground itself, the contention of the union is liable to be rejected and the

Hon'ble Apex Court have held that departmental proceedings and proceedings in a criminal case can proceed simultaneously and there is no bar to conduct departmental enquiry and criminal proceeding simultaneously and the charges in the disciplinary proceedings and the charges in the criminal trial against the workman are not the same or similar and it had lodged a FIR against the robber and during investigation, police found the involvement of the workman in commission of the offence and named him as an accused in the case and the trial of the criminal case began in the criminal court on 03.12.2008 and much before the trial of the criminal case, the disciplinary enquiry was already completed and the workman is not entitled for any relief.

4. No rejoinder has been filed either by the union or the workman.

5. As this is a case of dismissal of the workman from service as punishment, after conducting of a departmental enquiry against him, the fairness or other wise of the departmental enquiry was taken up as a preliminary issue for consideration and as per order dated 15.07.2014, the enquiry conducted against the workman was held to be legal, proper and in accordance to the principles of natural justice.

6. During the course of argument, it was submitted by the learned advocate for the workman that charge sheet dated 12.02.2004 containing three charges under the paragraphs 5 (b),(d),(j) and (l) of the Bi-Partite settlement was issued against the workman, while he was working as a part- time waterman- cum- sweeper and pending the departmental enquiry, the workman was put under suspension vide order dated 19.04.2003 and as the workman in his reply to the said charge sheet denied the charges levelled against him, departmental enquiry was conducted against him and he took part in the departmental enquiry and after conclusion of the departmental enquiry, the Enquiry Officer vide his report dated 18.10.2004 declared all the charges to have been proved against the workman and on the basis of the said enquiry report, the Disciplinary Authority awarded the punishment of dismissal from services by order dated 08.02.2005 and the appeal preferred by the workman was rejected by the Appellate Authority and on 05.04.2003, there was robbery of a sum of Rs.21 lacks from the Bank and a police complaint was filed by the officials of the Bank for the said occurrence and after investigation, police filed a criminal case in the court, making the workman as one of the accused persons and during the pendency of the criminal case against the workman, the party No.1 initiated the departmental enquiry against him and proceeded with the same in contravention of clause 521 of the Sastri Award, in spite of his protest and party No.1 did not wait for the final result of the criminal case

and committed error in Law in dismissing the workman from services and in view of the matter, the entire departmental enquiry and punishment imposed are ab-initio illegal and invalid.

It was further submitted by the learned advocate for the workman that the report of the Enquiry Officer is not based on the evidence on record of the departmental enquiry and the Enquiry Officer did not take into consideration the defence evidence and gave unreasonable weight to the evidence of the management and the report of the Enquiry Officer is short of proper reasoning and perversity is writ large on the face of the enquiry report and the conclusions drawn by the Enquiry Officer are as such, which cannot be arrived at by any reasonable man on the material on record of the enquiry and the findings of the Enquiry Officer are perverse and the Disciplinary Authority and so also, the Appellate Authority passed the orders without due application of mind and the orders are mechanical and while passing the order of punishment, the Authorities did not consider the past service records of the workman and the punishment is not proper and shockingly disproportionate and is liable to be set aside and for that the workman is entitled for reinstatement in service with continuity and full back wages.

7. In reply, it was submitted by the learned advocate for the party No.1 that by order dated 26.05.2014, the Tribunal has already held the departmental enquiry conducted against the workman as legal, proper and in accordance with the principles of natural justice and at the time of deciding the preliminary issue of the legality or other wise of the validity of the departmental enquiry, the Tribunal has already considered and decided the question of initiation of the departmental inquiry against the workman by the party No. 1 during the pendency of the Criminal case and completing of the said inquiry and as such there is no scope to reconsider the same again and more over, the final order of punishment in the departmental inquiry was passed on 08.02.2005, whereas, the trial of the criminal case started on 31.12.2008, when the evidence of the first witness was recorded and it is clear that much before the beginning of the trial of the criminal case, the disciplinary enquiry had been completed, so there was no question of staying of the disciplinary proceedings by the party No.1 and such a request was also never made by the workman during the conduct of the departmental enquiry and the workman was acquitted in the criminal case on 17.02.2012 and the acquittal of the workman cannot affect the already concluded disciplinary enquiry and the charges in the departmental inquiry and in the criminal case were not exactly the same and the witnesses examined in both the

proceedings were also not the same and as such the acquittal of the workman in the criminal case is of no avail to him.

It was further submitted by the learned advocate for the party No.1 that in the departmental inquiry four witnesses were examined by the management to prove the charges against the workman and their evidence remained unchallenged as there was no cross-examination and the findings of the Enquiry Officer are based on the evidence on record of the departmental enquiry and the same are not perverse and the punishment imposed against the workman cannot be said to be shockingly disproportionate to the grave misconduct proved against him in a properly conducted departmental enquiry and therefore, there is no scope for the Tribunal to interfere with the punishment and the workman is not entitled to any relief.

In support of the submissions, the learned advocate for the party No.1 placed reliance on the decisions reported in Civil Appeal No. 8513 of 2012 (SC) (The Deputy Inspector General of Police Vs. S. Samuthiram), (2011) 4 SCC-584 (State Bank of Bikaner Vs. Nemichand), (2006) 2 SCC-255 (TNCS Corporation LTD. Vs. K. Meerabai), 2003 LAB. IC-281 (The Commissioner of Police Vs. Rachakonda R. Subbaiah), AIR 2003 SC-1571 Chairman-cum-Managing Director, United Commercial Bank Vs. P.C. Kakkar), AIR 2003 SC-1462 (Regional Manager, UPSRT Vs. Hotilal), 2006 AIR SCW-5457 (State Bank of India Vs. Ramesh Dinkar), 2012 AIR SCW-5835 (Avinash S. Bhosale Vs. Union of India), (2013) 2 SCC-740 (State Bank of India Vs. Narendra Kumar Pandey), AIR 1996 SC-1556 (Bharat Forge Company Ltd. Vs. A.B.Zodge) and 2010(6) Mh. L.J.-309 (General Secretary, General Kamgar Union Vs. Noble Paint & Varnish Co. Pvt. Ltd.)

8. At this juncture, I think it necessary to mention that the submissions made by the learned advocate for the workman in regard to initiation of the departmental enquiry against the workman during the pendency of the criminal case and proceeding with the same without waiting for the result of the criminal case had been considered at the time of deciding of the preliminary issue of the validity or other wise of the departmental enquiry and as such, there is no scope for reconsideration of such submissions again. It is to be further mentioned that as the departmental enquiry conducted against the workman has already been held to be legal, proper and in accordance with the principles of natural justice, there is no scope to consider other submissions in regard to the validity of the departmental enquiry.

9. In view of the submissions made by the learned advocates for the parties, I think it apropos to mention

the principles settled by the Hon'ble Apex Court in a number of decisions in regard to the power of the Tribunal to interfere with punishment awarded by the competent authority in departmental proceedings.

In a number of decisions, the Hon'ble Apex Court have held that:-

“The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of Legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter of the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.

It is also settled by the Hon'ble Apex Court that:-

“The disciplinary authority and on appeal, the appellate authority, being fact finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.”

10. Keeping in view the settled principles as mentioned above, now, the present case in hand is to be considered.

11. On perusal of the record, it is found that the findings of the Enquiry Officer are based on the evidence on record of the departmental enquiry. The Enquiry Officer has analyzed the evidence on the record of departmental enquiry in a rational manner and has assigned reasons in

support of his findings. It is also found that the findings of the Enquiry Officer are not as such, which cannot be arrived at by a reasonable man on the materials on record of the departmental enquiry. It is not a case of total absence of evidence on record of the enquiry or that the findings of the Enquiry Officer are totally against the evidence on record. Hence, the findings of the Enquiry Officer cannot be said to be perverse.

12. So far the question of proportionality of the punishment is concerned, it is found that grave misconduct of unauthorized disclosure of confidential information regarding the affairs of the Bank which were prejudicial to the interest of the bank, willful damage or attempt to cause damage to the property of the bank, doing any act prejudicial to the interest of the bank and gross negligence involving the bank in serious loss have been proved against the workman in a properly conducted

departmental enquiry. Hence, the punishment of termination of the services of the workman cannot be said to be shockingly disproportionate. From the facts and circumstances of the case, it is found that there is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered:-

ORDER

The action of the management of State Bank of India (Asstt. General Manager, Region IV, Zonal Office, Nagpur) and the Deputy General Manager, State Bank of India Kingsway, Nagpur in awarding punishment of dismissal from the Bank services to Shri D.K. Pranjle, Ex-part time Messenger-cum-Farrash, vide orders No. AGM/IV/AS/5412 dated 08.02.2005 and No. DGM/DISC/2.5.2006 dated 01.08.2005 is justified and legal. The workman concerned is not entitled to any relief.

J. P. CHAND, Presiding Officer